

STAFFORD COUNTY PLANNING COMMISSION MINUTES

November 3, 2010

The meeting of the Stafford County Planning Commission of Wednesday, November 3, 2010, was called to order at 6:41 p.m. by Chairman Gordon Howard in the Board of Supervisors Chambers of the County Administrative Center.

MEMBERS PRESENT: Howard, Fields, Rhodes, Hazard, Mitchell, Kirkman and Hiron

MEMBERS ABSENT: None

STAFF PRESENT: Harvey, Smith, Stinnette, Doolittle, Ennis, Hudson and Hornung

DECLARATIONS OF DISQUALIFICATION

Mr. Howard: Are there any declarations of disqualifications for this meeting from anyone? Hearing none we will move right into unfinished business which is on the agenda and item 1 and it is Patriot Ridge preliminary subdivision. And again as I mentioned we were having some technical difficulties so there may be some maps and things we can not pull up immediately. Thank you we will go right to staff.

Mr. Harvey: Mr. Chairman, Mrs. Doolittle will be giving an update to the Commission.

Mr. Howard: Thank you.

UNFINISHED BUSINESS

1. SUB100017; Patriot Ridge - Preliminary Subdivision Plan - A preliminary subdivision plan for 16 single family residential lots on private well and septic systems, zoned A-2, Rural Residential, consisting of 23.12 acres located on the west side of William and Mary Lane, approximately 1,200 feet south of Decatur Road on Assessor's Parcels 31-67 and 31-68 within the Griffis-Widewater Election District. **(Time Limit: December 29, 2010) (History - Deferred at October 6, 2010 Meeting to October 20, 2010 Meeting) (Deferred at October 20, 2010 Meeting to November 3, 2010 Meeting)**

Mrs. Doolittle: Good evening Mr. Chairman and members of the Commission. Item number 1 is a continuation of the discussion from the last meeting for the Patriot Ridge preliminary subdivision plan application. The plan proposes sixteen single family residential on 23.12 acres zoned A-2, Rural Residential. Attachments 1, 2 and 3 that were included in the packer help show the history of the parent parcel involved. Attachment 1 is a portion of the tax map that was current through 1996 and the parent parcel is 62, 67 and 68 are highlighted in blue and have existed since at least that time. Attachment 2 is the plat showing Willow Circle minor subdivision and the parent parcels are highlighted in blue as well. This plat created lot 1 through 5 and left a remainder of parcel 31-67. Attachment 3 is the proposed preliminary plan and the current parent parcel is 31-67 and 31-68 are highlighted in blue. The minor subdivision plat created five new lots leaving a remainder of the parent parcel. The remainder is being subdivided with this proposed plan using the major subdivision approval process. The applicant requested to put a note on the plan regarding providing and ingress/egress easement on lot 16 to serve land locked parcel 31-65. The note also states the location and easement width will be determined on the construction plan and will be recorded on the final plat.

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At the last meeting the applicant had not yet put the note on the plan and he has now provided the note on sheet 1. There are not standards for an ingress/egress easement granted by one property owner to another however staff recommends a width of twenty feet. The Commission also requested information regarding bio-retention facilities. Specifically how many are in the county, how many are on individual lots and how many are maintained by homeowner association's verses the home owner. The Public Works Department reports that the county inventory of stormwater management facilities current to early 2009 identifies one hundred and forty nine bio-retention facilities. Most of these are on commercial projects built in the early to mid-2000's. The majority of bio-retention facilities in single family residential projects are located in easements on private residential lots. From staff's observation the majority of small subdivisions have the individual lot owner responsible for maintenance of the on lot facilities and the larger subdivisions have an HOA to maintain the facilities. Are there any questions?

Mr. Howard: Thank you Mrs. Doolittle. I will bring it back to the Commission. Are there any questions of staff? Ms. Kirkman.

Ms. Kirkman: Mr. Chair, let's go back to the minor subdivision that created five lots and the remainder. If we could go back, we had a private access easement for a similar situation where there appeared to be plans for at least a minor subdivision and during the course of that I inquired about further subdivision of the remainder lot and I understood at that time that the remainder lot could not be further subdivided because it had been created through a minor subdivision plan. This plan proposes to do exactly that which is to further subdivide a remainder that was created through a minor subdivision. Could somebody please explain that?

Mr. Howard: Ms. Kirkman, are you referring to this particular minor subdivision plan or this is a different plan.

Ms. Kirkman: No I am referring to the fact that we had gotten advice previously when we were discussing the Mount, I think it was call Mount Olive Estates.

Mr. Howard: Okay.

Ms. Kirkman: Private access easement where I believe we were informed that once a remainder is created through a minor subdivision plan it could not be further subdivided because that was a concern of some members of the Commission at that time about that particular private access easement. And yet today we are presented with a plan which further subdivides a remainder that was created through a minor subdivision. Could somebody please explain if that it possible or not?

Mr. Howard: I am not sure if I have all the details on the other plan that you are referring to in a comparison perspective, but Mr. Harvey do you have any knowledge of the comparison of these two.

Mr. Harvey: Yes Mr. Chairman and Ms. Kirkman I can explain the previous subdivision application that had a proposed private access easement that would serve a lot that was large enough to...could potentially be subdivided. However under the minor subdivision rules you are limited to creating five additional lots, so that is five lots plus the remainder. If the applicant was to move forward with that proposal as stated that remainder could not be further subdivided for the fact that number one, you would have a limitation for the number of lots for a minor subdivision. If they were intending to subdivide it further then they would have to come back in a and do a preliminary subdivision plan

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because then it would no longer be eligible for a minor you would have to do a major subdivision. Number two in that particular case our PAE Ordinance only allows one lot to be created off of a PAE. The only way the remainder could have been divided further was to have another lot on a PAE so that would not be permitted except in a case of a family subdivision. In that case the property owner would have to hold on to the lot for at least five years to be eligible to further subdivide it for a family subdivision.

Ms. Kirkman: And what are the different requirements for submission for a plan for a minor subdivision verses a major subdivision?

Mr. Harvey: Minor subdivision goes straight to a record plat submittal, it's an administrative review. A major subdivision is any subdivision of more than five lots or any subdivision that involves a public improvement. So that could be a subdivision for three lots if there is a dedication of a public sewer easement and/or construction of a portion of a public road. At that point in time it starts with a process of having a preliminary subdivision plan which is submitted to our office and is reviewed by the Technical Review Committee which comprises of a number of staff reviewers as well as a member of the Planning Commission. Once the application is deemed to be complete then it would be presented to the Planning Commission for its review. Ultimately the Planning Commission is the approving authority on a preliminary subdivision plan. The second step would be to submit a construction plan to build any public improvements that were identified on the plan, if that applied. And finally the third step of a final subdivision plat.

Ms. Kirkman: And is there any difference in the type of information that is required to be submitted? For instance for minors do you have to submit the soil work?

Mr. Harvey: Yes you have to submit soil work because our Subdivision Ordinance requires that drainfields meet certain specifications. The requirements for a minor subdivision plat are virtually the same as a major subdivision plat, it is just the major subdivision you have two additional steps that you have to go through, a preliminary plan and also a detailed engineering design for any public improvements that would have to be built.

Ms. Kirkman: Okay, thank you.

Mr. Howard: Any additional questions from the Commission to staff?

Ms. Kirkman: Yes.

Mr. Howard: Ms. Kirkman.

Ms. Kirkman: I have some concerns that in the road design. The applicant has chosen to choose road designs that are for roads that have less than four hundred vehicle trips per day. And that includes both the shoulder with and the width of the road itself. This particular subdivision, we have already seen this start out as a minor subdivision and now we are seeing a major subdivision with an adjacent lot and there are three large unimproved lots directly adjacent to what is being proposed now with the potential of inter-connectivity between this subdivision and those other lots. What would...my concern is that a road gets built based on there being less than four hundred vehicle trips per day on the road and yet there is this potential for all these other lots to be developed and potentially access the road. What would keep that from happening?

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Mr. Howard: Mr. Harvey.

Mr. Harvey: I can answer in certain general terms Mr. Chairman and Ms. Kirkman. Four hundred vehicle trips per day in equivalent VDOT terms is essentially forty homes. VDOT calculates that vehicle trips at ten vehicle trips per single family dwelling. Should this design be changed to include another access road to a vacant parcel, VDOT would continue to review that application to make sure that is not having an impact on the existing road network. There may be some other road improvement that would be required off site or for the new subdivision being created in this case should they exceed that four hundred vehicle trips per day. If there is a problem with that access point VDOT may make them do other...make them have other considerations such as coming out at a different street so they can split the traffic or some other mechanism to reduce the vehicle count. But in general VDOT had its standards with certain vehicle trips per day limitations and if you exceed those limitations then you would have to abide by the higher standard.

Ms. Kirkman: But Mr. Harvey could you please clarify, because I understood that there was absolutely no ability to require off site road improvements for by-right subdivision plans.

Mr. Harvey: VDOT has the ability to control access to public streets. So if you are tying into a public street that is not at adequate capacity VDOT may be able to require them to do some upgrades to that existing street. That is somewhat limited on what they can do but it is also somewhat limited in what they have the ability to approve. They cannot approve an access point for a developer and the developer has to find some other alternative means to get into their property for access.

Ms. Kirkman: So if the roads already build can VDOT require the developer to do an off-site widening of the road?

Mr. Harvey: We have seen some cases where VDOT has required turn lanes to be provided, say on a major road way like Brooke Road or some other roads. It depends on the vehicle trips per day and if a turn lane is necessary or those other similar types of improvements. You have probably also seen at times while driving down the roads where they may require some of the area to be repaved and maybe the lanes widened a little bit for a small section of road.

Ms. Kirkman: The turn lanes usually occur on the property owned in conjunction with the subdivision plan. In this instance if any of those three large adjacent parcels connected into the roads we are talking about having to widen the road from eighteen feet to I think it is twenty four feet at a minimum and the shoulders from six feet to eight feet. Are you aware of any instances where VDOT has required that? Or do they even have the legal ability to do that?

Mr. Harvey: I am not familiar with any situations where one subdivision is connecting into another subdivision and VDOT's made that first subdivision streets have to be improved. Usually it is for the secondary roads where you see the improvements and like where you were describing where that property has frontage along a secondary road.

Ms. Kirkman: Right.

Mr. Harvey: That is the situation I am most familiar with.

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Ms. Kirkman: Then in a related matter part of this subdivision plan and the street width is conditional upon there being no on street parking. How does that get enforced? Because I know we've had some issues with that with some pretty narrow roads with some subdivisions and schools not being able to get in with their school buses.

Mr. Harvey: If there are streets that are designated as no on street parking through placement of signs along the street. Then that is something that the neighborhood can petition the county to enforce the parking requirements. It is a relatively new ordinance, previously it had been State Police but now the local Sheriff's office has the ability to enforce parking requirements within neighborhoods.

Ms. Kirkman: So the only way that would get enforced is if the people that were parking their cars on the street enforce...request the county to enforce the no parking on the street condition of the street width.

Mr. Harvey: Yes and VDOT would have to post signs along the street for no parking.

Ms. Kirkman: And then I have a question for the plan reviewer. Note number 19 says the primary and hundred percent reserve sewage disposal sites can not be altered by construction or excavation. And then note number 25 says the portion of the driveway that crosses the reserve drainfield area shall be paved. Could you please explain to me how you put a drainfield in when the area has been paved?

Mrs. Doolittle: Wouldn't the...would the drainfield go in prior to the driveway?

Mr. Howard: I think Ms. Kirkman is questioning is that wording correct? Or is that...should the wording indicate, I don't have it in front of me, but should the wording indicate that the pavement would take place after the drainfields were in place and inspected.

Ms. Kirkman: No Mr. Chair, actually I am not questioning the wording. I am questioning the ability to pave a drainfield period. And use it for a driveway.

Mr. Howard: Okay, that is a different question.

Mrs. Doolittle: Mr. Harvey...

Ms. Kirkman: Well you reviewed the plan.

Mr. Howard: Mr. Harvey is there anything in the Subdivision Ordinance that prohibits paving over where the drainfield is located?

Mr. Harvey: That would be more so a Health Department call. The engineer may be able to shed some light on that. As Ms. Kirkman says my experience has been that the Health Department does not allow you to pave over or put any permanent structure over top of a drainfield area.

Ms. Kirkman: Could we have the applicant come forward to explain that?

Mr. Howard: Before we do that...

Ms. Kirkman: Okay.

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Mr. Howard: ...can we see if there are any other questions of staff and then we will bring the applicant up for I am sure a host of questions. Are there any other questions of staff from the Commission? I have one as it relates to the parking and the comment on if a bus were to come down. The width of the road is twenty feet, is that correct?

Ms. Kirkman: No it's eighteen.

Mr. Howard: Its eighteen feet. I thought I heard Mrs. Doolittle mention the word twenty, I could be wrong.

Ms. Kirkman: Mr. Chair, if you look on page...

Mr. Howard: I don't have it.

Ms. Kirkman: Page two they have got a typical road street section and it specifies eighteen feet. The plat...the plan.

Mr. Howard: If I had that I could do that, I don't have that.

Ms. Kirkman: Oh.

Mr. Howard: I guess Mrs. Doolittle, is there a reason why they wouldn't have gone with your twenty foot recommendation?

Mrs. Doolittle: What twenty foot recommendation are you referring to?

Mr. Howard: I thought you, in your opening comments and maybe I wrote it down wrong that...

Ms. Kirkman: Oh that's the ingress/egress.

Mr. Howard: So that's twenty foot wide access...

Mrs. Doolittle: Ingress/egress to the land locked use.

Mr. Howard: And then it, I guess it contours down to eighteen feet in width the entire length of that road.

Mrs. Doolittle: The twenty foot recommendation was for the ingress/egress easement to the land locked parcel.

Mr. Howard: Okay. Not the street, okay. I did write that down wrong then.

Ms. Kirkman: Yes Mr. Chair, my concern is the road width itself...

Mr. Howard: Right.

Ms. Kirkman: ...which is only eighteen feet.

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Mr. Howard: And then VDOT's requirement is twenty four feet is that correct?

Mrs. Doolittle: I can't answer that.

Mr. Howard: I think that is correct. Did you have any discussion with the applicant at all on the width of that road?

Mrs. Doolittle: I did not.

Mr. Howard: Okay. VDOT would have to sign off on that road when they go through the...when they go through their inspecting of that plan, is that correct?

Mrs. Doolittle: Correct.

Mr. Howard: Have you had any discussions with VDOT to this point about this particular preliminary subdivision plan?

Mrs. Doolittle: Yes we have an approval letter from VDOT.

Mr. Howard: So VDOT has looked at the width of the road?

Mrs. Doolittle: Correct.

Mr. Howard: And they understand the no parking...or are they the ones that indicated that this particular road should not allow parking...there should not be parking allowed.

Mrs. Doolittle: I am not certain.

Mr. Howard: Okay. Because if they did would they then put the signs up...who would be required to put the no parking signs up?

Mr. Harvey: Mr. Chairman that would be a VDOT function because this would be a state maintained roadway. Normally VDOT doesn't put up no parking signs on a newly constructed road way at least with this type of road design. In more urban traditional neighborhood design they may have those kind of signs. I am not one hundred percent sure about all the specifics. I know we are working on another situation in a business park where the street has not been taken in and the owners along the street want to put up no parking signs but that would prohibit us from having VDOT accept the street. VDOT will typically accept the street and then find...determine if the warrants or problems they have observed warrant the need for the signs.

Mr. Howard: So in...I have seen in other subdivisions where the builder will actually put the stop sign up or some other roadway signs, caution signs. And then VDOT accepts the road into their system and then those signs actually stay. You are indicating that could not be the case here, so if the developer were to say I will put them...those signs up and then once the road is accepted into VDOT they obviously take over the maintenance of those road signs, because you should be using the VDOT approved signs.

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Mr. Harvey: Yes, VDOT requires that all traffic safety signs such as stop signs, street naming signs, yield signs, those types of sign devices would be installed prior to the street being accepted. I can do some further checking about the no parking signs, but my understanding from the Public Works staff is that is something that VDOT does not allow to be posted until after the street has been accepted.

Mr. Howard: I would like to know that actually if that was something they would allow to occur. The other concern obviously is Fire and Rescue or any emergency vehicle trying to get down the street should that need arise and be it a Sunday afternoon when you have residents having their vehicles out on the street could actually impede someone from being able to get down that road.

Mrs. Hazard: Mr. Chairman.

Mr. Howard: Yes.

Mrs. Hazard: Just to add that on our revised plat, I believe it is number 22, excuse me without having my glasses, but it does say no water is available for the fire protection of this subdivision so I would have great concern if they were having to bring it in...

Mr. Howard: They would have to bring a pumper truck.

Mrs. Hazard: ...we would have to be sure they could get down the road.

Mr. Howard: Okay, can we hear from the applicant now. I think there are some questions for the applicant. Would the applicant like to come forward please?

Mr. Newport: Good evening ladies and gentlemen of the Planning Commission, Keith Newport Sunshine Home Builders.

Mr. Howard: Okay.

Mr. Moran: I am John Moran with Bronco Development. I am the engineer.

Mr. Howard: Okay. Well you have heard two of the questions so far I think. So one was the...can you pave over...

Mr. Newport: I believe...I mean as far as I know nothing has changed. And the only way you can cross a drainfield with a driveway is to pave it. That is the way the Ordinances used to read with the Health Department. The Health Department has reviewed it and seen it and...

Mr. Moran: You have to go across it at grade.

Mr. Newport: You can't disturb the grade.

Mr. Howard: Right you have to...when you speak just talk into the microphone in case anybody at home wants to hear you.

Mr. Newport: Right. If you, I believe it is still the same. If you cross a drainfield with a driveway it must be paved. That used to be the standard.

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Mr. Howard: And then if VDOT allows would you be willing to put the no parking signs up?

Mr. Newport: Sure I have never denied VDOT anything they want or you know if you all would like no parking signs on there I would be glad to put them up.

Mr. Howard: Alright. And then let me come back to the Commission to see if there are additional questions for the applicant. Are there any additional questions for the applicant? Those are the two that had come up previously.

Ms. Kirkman: Why is it necessary to put a driveway over the drainfield? And what happens if the drainfield need repairs?

Mr. Moran: Well the drainfield...the driveway in these cases were put on the preliminary plan more or less to prove the stormwater management computations that I am doing. They are not fixed at this point. I can move the driveway over a little more on this lot and probably keep it out of there. I just kept a little bit off the property line and it went across the corner. If I go across it at grade I can pave over it I just can't cut into it. So there is a good possibility when you actually do grading plans on this, this would be shifted and gotten out of it all together. I have to provide something for Planning Stormwater Management to show how I justify my bio-retention facilities and so forth, so I show the houses the driveways to come up with an impervious area to do my computations.

Mr. Howard: Okay, any other questions of the applicant? Okay, thank you.

Mr. Newport: Thank you.

Mr. Moran: Thank you.

Mr. Howard: I will bring it back to the Planning Commission for discussion. Ms. Kirkman.

Ms. Kirkman: Mr. Chair, I do have concerns about the street widths on this subdivision and I would also like to actually hear from the Department of Health. I don't know if that is still Tommy Thompson is doing this on the drainfield issue so at this time...I don't know if we need somebody from VDOT in or if staff can communicate with VDOT. I just know like for instance Widewater Village was one of the places where the school bus actually had to stop running and picking up in front of houses because people were parking on the street...

Mr. Howard: Sure.

Ms. Kirkman: ...and they couldn't get through there. So at this time I am going to make a motion defer until we can get that lined up and I think because of...I imagine staff's going to be pretty busy the next two weeks I am going to make that motion to defer to our first meeting in December. So that they can line up whatever they need to with VDOT and the Department of Health.

Mr. Howard: Great. Is there a second?

Mr. Fields: Second.

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Mr. Howard: Second by Mr. Fields, any discussion? No discussion. All those in favor of Ms. Kirkman's motion signify by saying aye.

Mr. Rhodes: Aye.

Mrs. Hazard: Aye.

Mr. Fields: Aye.

Mr. Mitchell: Aye.

Ms. Kirkman: Aye.

Mr. Hirons: Aye.

Mr. Howard: Aye. Opposed, say nay? The motion carries 7 to 0.

Ms. Kirkman: Can we just check with staff if they understand what we are looking for?

Mr. Howard: Absolutely.

Mr. Harvey: Yes sir and yes ma'am I understand. The next scheduled meeting for December would be December 1st.

Ms. Kirkman: Yes.

Mr. Howard: And do you understand so Ms. Kirkman is looking to have the Department of Health here to answer questions about the drainfield issue and also either VDOT here or can we get some answers as to the no parking issue and whether or not we can require the no parking signs if we ask that to be proffered is VDOT okay with that or are we asking for something that they are not going to approve.

Ms. Kirkman: But also in addition to that was the concern about connectivity with adjacent parcels and VDOT's ability to require road widening off site to...if those other parcels are connected.

Mr. Howard: Okay, thank you. Item 2 and item 3 are actually deferred and I know on item 2 we are waiting on an answer.

Mr. Fields: I am sorry. I am sorry to be slow.

Mr. Howard: Oh that's alright.

Mr. Fields: And I apologize if this is not related, but is there...related to the road width is there a...is there a relationship between the tighter road width...obviously there is going...if you change the road width you are going to have to change all the LID calculations. So I guess what I am trying to...the question that I would have for staff and the applicant for the next meeting and Health and everybody is maybe address how that...how that changes. If there is an issue of variability ultimately the road width I assume then that affects the LID, I assume.

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Ms. Kirkman: That is a good point because it increases the impervious area by fifty percent if they...

Mr. Fields: Which is a lot when you get a whole road.

2. Rappahannock River Overlay District and Potomac River Overlay District (Referred back by Board of Supervisors) (**Time Limit: October 6, 2010**) (**History - Deferred at June 16, 2010 Meeting to August 18, 2010**) (**Deferred at July 21, 2010 Meeting to September 1, 2010**) (**Deferred at September 1, 2010 Meeting to October 6, 2010 Meeting**) (**Deferred - Requesting additional time from Board of Supervisors**)
3. COM1000010; Comprehensive Plan Compliance Review - Miracle Valley Lane Sanitary Sewer Extension - A request for review to determine compliance with the Comprehensive Plan in accordance with Section 15.2-2232 of the Code of Virginia (1950) as amended, for the extension of gravity sanitary sewer outside of the Urban Services Area a length of 505 linear feet to serve two residences, located on the north side of Deacon Road and east side of Grafton Village Elementary School on Assessor's Parcels 54-132, 54-133A and 54-133B within the Falmouth Election District. (**Time Limit: July 4, 2010**) (**History - Deferred at May 19, 2010 Meeting to June 2, 2010 Meeting**) (**Deferred at June 2, 2010 Meeting to October 6, 2010 Meeting**) (**Deferred at October 6, 2010 Meeting to December 1, 2010 Meeting**)

Mr. Howard: Okay. Item 2 and 3 were deferred and we were waiting to hear back actually on item 2 and Mr. Harvey I am not sure if we have that answer yet.

Mr. Harvey: No sir, we don't have an answer on that yet.

Mr. Howard: Okay.

4. Discussion of Conditional Zoning (Proffers) (**Time Limit: January 3, 2011**) (**In Committee**)
5. Discussion of Transfer of Development Rights (TDRs) (**Time Limit: January 3, 2011**) (**In Joint Committee**)
6. Discussion of Privatized Liquor Sales (**In Committee**)

Mr. Howard: Items 4, 5 and 6 last meeting we created some committees and I know Mr. Fields and I will be working on dates with Mr. Rhodes later this evening on the proffer committee. Have any of the other committees met? I mean we could wait to when the agenda calls for committee updates, but I don't think anyone has met yet. Is that fair to say? I don't think so. Okay. So we will wait for the...when we get to the part of the agenda for committee updates we'll go through that and get some dates out there for people. Item 7 is new business and this is the Mount Hope Estates Preliminary Subdivision Plan and Mr. Harvey, we will hear from staff on this?

Mr. Harvey: Yes Mr. Chairman, Andrea Hornung will be making the presentation.

NEW BUSINESS

7. SUB100107; Mount Hope Estates - Preliminary Subdivision Plan - A preliminary subdivision plan for 16 single family residential lots on private well and septic systems, zoned A-1,

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Agricultural consisting of 57.93 acres located at the end of Mount Hope Church Road, approximately 3,700 feet west of its intersection with Brooke Road on Assessor's Parcels 39-25 and 39-46 within the Aquia Election District. **(Time Limit: January 26, 2011)**

Mrs. Hornung: Good evening Mr. Chair and members of the Commission. May I have the computer please? Excuse me. The item before you is the preliminary subdivision plan for Mount Hope Estates. SUB100107. The applicant is Amit Parabadia of Culpeper Investments. The application date was May 3rd and the TRC date was May 26th. The engineer for this project is Christopher Kowalski with Welford Engineering and this is located within the Aquia Election district. This next slide will show you the subdivision in relation to some of the county property around it. The parcels are 39-25 and 46 and it is at the end of Mount Hope Church Road approximately thirty seven hundred feet west of the intersection with Brooke Road. The size is 57.93 acres, the utilities of use will be private well and on site septic sewage disposal. The zoning is A-1 Agricultural and there will be sixteen single family dwelling lots of at least three acres. Most of them are a little bit more than three acre lots. Go back please, what you see of...the parcels that are noted for Stafford County that is the landfill owned by the R-Board which is by Stafford County and the City of Fredericksburg, which is portions of the landfill. The top part above...north as we are looking of parcel 25 that the access from the subdivision has already been recorded to access the landfill of which the National Civil War...the organization that is going to develop it, I am sorry, and so you see these two parcels that will encompass the subdivision. This is the overall...the next slide will be the overall of the subdivision and we are having some computer difficulties. That is okay. And you will see that this subdivision is basically at the end of Mount Hope Church Road and the cul-de-sac ends at lots 11 and 10 and at the end of that is that recorded easement that I was talking about that is for access to the Civil War Park at which time when that is fully developed. And there is an access easement along the road...along parcels 1 and 2 and 16 it follows opposite parcels 1 and 2 on the road so that is accesses those parcels that are to the east. That is an existing access for those parcels that were landlocked. The portion of the easement will be vacated once the road is dedicated but there is an easement to the rear of parcel 16 that is only for the benefit of the lots adjacent. Some background of this subdivision, it was approved...the preliminary was approved in October 22, 2003 and the construction plans were approved October 31, 2005. Because of the approval of the preliminary all of the lots were required to be recorded in 2008, October 22, 2008 but the plat and the construction plans were submitted in time to secure the vesting of this subdivision. The plat was not able to be recorded in time so eventually this subdivision lost its vesting. So with some tweaking of the subdivision to comply with the Health Department and the County Drainfield Regulations, this is now back before you for approval. The roads are already in, they have their base pavement. Once this preliminary is approved then the applicant can proceed with the final plat and have that recorded and then the lots will be able to be sold. And if you have any questions, I will be glad to assist you and we also have the engineer here for any more technical questions. In case you have anything more technical.

Mr. Howard: Thank you Mrs. Hornung, I will bring it back to the Commission and see if there are any questions.

Mr. Fields: Mr. Chair.

Mr. Howard: Mr. Fields.

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Mr. Fields: Do you have a...do you...I am a little...to really get a sense of this I certainly am a little...I would like to see a map. Do we have a map? Do you have a map anywhere that shows the existing and planned cells of the landfill in relationship to this subdivision and the well sites?

Mrs. Hornung: I don't have it with me, but if you would like I can provide that at the future meeting.

Mr. Fields: Because the landfill...that property is quite large. I was on the R-Board for many years. The property is quite large. A lot of it is eventually going to be carved into cells of course but a lot of it is not. Even though I suppose the Health Department has signed off on the wells, I have...you know a well next to a landfill is a slightly uncomfortable situation, not insurmountable, but slightly uncomfortable. I would kind of like to see how close the existing and planned cells are to those wells. Or if they...or a statement or some information maybe the applicant can enlighten me on are these wells much deeper of a nature that there is no potential interactivity between ground water from the landfill and these wells.

Mrs. Hornung: The part of the...you will see there is a Virginia Dominion Power easement to the south or directionally to the west of the subdivision. That easement goes further north and that crosses that part of the landfill that is going to be the Civil War Park. You see the RPA further west of that easement, that RPA boundary from the part of the landfill property that we have been working on for the Civil War Park. Some of the areas that are actively worked on are south of this or directionally from...correct directionally west of that RPA buffer. So the property that is directly adjacent to this easement, that is going to be what is reserved for the Civil War Park, which it was at one point 25.4 acres and now it is going to be increased to about 41 acres I believe to encompass the fortifications that are west...north west as you further into the county property and then there is some a little bit east of the Dominion Power easement. I do have a graphic of that landfill and that property and can provide that to you at a future meeting.

Mr. Fields: Alright, thank you.

Mrs. Hazard: Mr. Chairman, if I could follow up on Mr. Fields'...

Mr. Howard: Yes, Mrs. Hazard.

Mrs. Hazard: I see on the general notes number 5, going to Mr. Fields' question or comment. This project is located adjacent to Stafford County and City of Fredericksburg Regional Landfill. It is recommended that the purchaser of these individual lots periodically test their water through an approved testing laboratory. I am curious how that notice and recommendation is carried out. I know we have had lots of discussion about things...deeds, but that stand out to me going to Mr. Fields question but its recommended. I would like to make sure that any property owners that purchase these are told of this, so just a comment.

Mr. Howard: Mrs. Hornung, who made that recommendation?

Mrs. Hornung: I would have to...

Mr. Howard: Defer to the applicant?

Mrs. Hornung: ...defer to the engineer.

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Mr. Howard: Okay.

Mrs. Hornung: It could be the Health Department, but I...

Mr. Harvey: Mr. Chairman, I believe it may have been a previous Planning Commission that reviewed the plan in 2003. If I recall, that was a concern back then. But we can certainly...

Mr. Howard: And I think Mrs. Hazard brings up the second part of that which is A, how do you notify that they need to do that? And how does that convey when someone sells that home?

Mrs. Hornung: It was the Health Department.

Mr. Howard: It was the Health Department?

Mrs. Hornung: Yes sir.

Mr. Howard: Okay. So we would need to kind of work through some of that because how would that convey if someone...for the new home buyer but if they were to sell their home ten years from now. How does somebody know that is a risk...that is a risk that comes with that particular location?

Mrs. Hornung: If I am not incorrect it could be added to the deed and also the plat the final plat if we are able to. And also make sure that that note is on the preliminary and follow through...well the construction plan is already approved but at least to follow through to the final plat. Once that is able to proceed.

Ms. Kirkman: Mr. Chair.

Mr. Howard: Ms. Kirkman.

Ms. Kirkman: If we could get clarification on that because I thought we were told we can't put on the deeds or require that we put on the deeds that a property lies within the Military Impact Overlay Zone so...

Mr. Howard: Yes that came up obviously with the comp plan. Mr. Smith do you have any...can you clarify that or can you bring that back to the next meeting.

Mr. Smith: Mr. Chairman I will answer what I can and come back to you with what I can't. Yes we can require it on the construction plans and on the final plat. I did look at, in the past, a particular issue. I would want to go back and look at this particular issue and determine whether there is different authority, there may be different authority, I don't know off hand.

Mr. Howard: Okay.

Mr. Smith: And I can do that.

Mr. Howard: Thank you.

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Mr. Harvey: And Mr. Chairman we can also get back with the Health Department to see what reporting requirements they have.

Mr. Howard: Great. I guess Glen Trimmer from the Civil War Group sent us an email. I assume he sent it I am not sure. But he did indicate that the applicant has been very helpful working through some issues. The question I have is about the eight foot gravel path. Eight foot in width and it looks like it is at the end of that cul-de-sac. Is that a walking path? There is an eight foot graveled easement.

Mrs. Hornung: That is to the stormwater parcel which is to the back of parcel 11.

Mr. Howard: So that has nothing to do with the Civil War site, okay. That was my concern was that some type of entrance on to the Civil War...the future Civil War site.

Mrs. Hornung: No what we have right now is that recorded easement from the owner of Mount Hope Estates going back to the R-Board property for that Civil War Park. That access is the inspection and maintenance access for the stormwater pond.

Mr. Howard: Okay, thank you.

Mr. Fields: (inaudible, microphone not on) was LID not applicable here?

Mr. Howard: Mr. Fields has a question.

Mr. Fields: Was LID not applicable here is that why we are using one pond?

Mrs. Hornung: Well these BMP facilities were already installed to the...at the time of the first preliminary approval. So in the meantime the County has been actively encouraging LID and that practice has been more common so with those items...facilities already being installed there was...I don't think there is any.

Ms. Kirkman: Could you clarify, does the county encourage or require LID?

Mr. Fields: I thought we required it (inaudible).

Mrs. Hornung: I am sorry, right. Earlier in 2003 if it was available it was encouraged but though our Ordinances we now require LID where possible.

Mr. Fields: But if they have lost their vesting under the earlier scenario wouldn't they have to comply with all the current regulations when they reapply...resubmit?

Mrs. Hornung: They would but the road and the BMP facility is already installed.

Mr. Fields: So that excuses them from that requirement?

Mr. Harvey: No.

Mrs. Hornung: I wouldn't...

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Mr. Harvey: They would still have to comply, but I see the design engineer is prepared to respond.

Mr. Howard: Okay we will hear from the engineer.

Mrs. Hornung: The engineer will give you the technical information.

Ms. Kirkman: Should we finish talking with staff first?

Mr. Howard: Did you have other questions?

Ms. Kirkman: Yes I do.

Mr. Howard: Okay, we will hold off then. Thank you.

Mrs. Hornung: Remember C4.

Mr. Howard: Okay, any other questions for staff? Ms. Kirkman?

Ms. Kirkman: I guess one of the concerns I have about this plan is I believe that the access road crosses CSX, it's an at-grade railroad crossing. Do you know if VDOT looked at that at all when they looked at this subdivision plan?

Mrs. Hornung: I could presume that they did because they have approved the former preliminary and the construction plan, but I did not have that conversation with them so I would have to verify that with them unless the engineer is aware of that.

Ms. Kirkman: So we are talking about a plan now, not the plan that happened in 2003.

Mrs. Hornung: That is correct.

Ms. Kirkman: So what was your correspondence now about this plan with VDOT?

Mrs. Hornung: I personally did not have any correspondence with VDOT.

Mr. Howard: Do you know if VDOT, Andrea, has looked at this updated plan?

Mrs. Hornung: Oh yes, absolutely. There is a VDOT letter in your packet that says that they have approved everything.

Ms. Kirkman: But you don't that they are aware that that is an at-grade crossing.

Mrs. Hornung: I would have to verify that. No I am not...

Mr. Howard: So could we get that answer?

Mrs. Hornung: Yes sir.

Mr. Howard: By the time this comes back?

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Ms. Kirkman: And then the Health Department letter, I just wanted to verify that the way the Health Department letter read was that they reviewed the plat and was soil work submitted for this plan to the Health Department?

Mrs. Hornung: Yes.

Ms. Kirkman: Okay. And then related to that, I guess I am concerned to see on lots 7 and 8, 9 and 10 reserve drainfield areas within the power line easement. Because I know they use heavy equipment to go in there and clean out those easements. So that's my...again that's something that needs to be clarified with the Department of Health. When they cut down that brush they have really heavy equipment and that will compact the soil which will change the soil structure which mean the soil work is no longer any good. So I am concerned about that piece of it. And perhaps the engineer can address that although I don't think they have their ASOE with them here tonight.

Mrs. Hornung: From what I understand with the Health Department was aware of the easement...power line easement being there and from what I understand drainfields are allowed in a power line easement and there is an agreement with the developer when they are going to install those drainfields within the easement. Just the same when a road is installed through an easement that has to be quit claimed. I don't know the terminology that's required but we've seen easements... excuse me... drainfields within power line easements before.

Ms. Kirkman: Right, but I would like someone to explain to me how the soil work that says this is now appropriate soil structure is still good after there has been heavy equipment traveling over that area.

Mr. Howard: So we would like...

Mrs. Hornung: Would you like me to...

Mr. Howard: From an engineer, we would like to hear how does heavy equipment, after a period of time, impact that soil? And the ability for that soil to operate as a drainfield.

Mrs. Hornung: If not then I can have the AOSE individual here to answer that question for you.

Ms. Kirkman: Or Mr. Thompson when he comes in December. Thank you.

Mr. Howard: Are there any other questions for staff on this plan that's before us? Alright before we hear from the applicant we are going to break, we have public hearings. We have four public hearings scheduled this evening and this is the time where we typically would open up the meeting to the public for public presentations. So you can address the Planning Commission this evening on anything that is not part of one of the public hearings. And the public hearings are listed on the agenda as 9, 10, 11 and 12. So anyone wishing to address the Planning Commission on any other topic may do so by stepping up to the podium and all we ask you to do is state your name, where you live. You will have three minutes when the green light goes on. When the yellow light comes on that just means there is about a minute left. And when the red light starts flashing we would just ask that you conclude your comments and that would indicate your three minutes have elapsed. So anyone wishing to address the Planning Commission may do so now by stepping forward and stepping up to the podium. Again on any issue that is not a public hearing issue this evening.

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8. Discussion of Secondary Street Acceptance Requirements (SSAR) - Repeal of Street Access Requirements (**Time Limit: January 17, 2011**)

Discussed after the public hearings.

7:30 P.M.

PUBLIC PRESENTATIONS

Mrs. Callander: Good evening Mr. Chairman and Commissioners. I am Alane Callander. I have heard comments lately from Planning Commissioners that it's the same people who show up to meeting to comment on the proposed comprehensive plan. I would like to say that the community is fortunate to have these folks. Committed enough to come to what as you know can be pretty boring meetings, follow the issues closely, even do serious research using their considerable skills and then sharing the information they have learned with the Commission. These people are like Patricia Kurpiel, who served on a previous comprehensive plan steering committee. She's an environmentalist and a finance expert. Also Rebecca Reed who served eight years on the Stafford Board of Supervisors, was Chairman of the Board. She's also an environmentalist, a retired lawyer who is very good with details. She is also a former math teacher, so she has some ability to assess numbers. There is Ruth Carlone. A long time community activist who served four years on this planning commission and she has continued to stay informed and involved through out the entire comp plan revision process. We usually see Dean Fetterolf at these meeting whom I believe does professional work with financial analysis and he keeps up to speed with what is happening and always provides excellent input. There are others as well that are paying attention, studying what is going on and serving as watchdogs. Our community needs these folks. When the county pays twenty five thousand dollars to a development industry analyst to crunch numbers to provide you with positive scenarios, it is important to have these watchdogs looking out for the citizens of the county. Thank you.

Mr. Howard: Thank you. Anyone else wishing to address the Planning Commission may do so by stepping forward.

Mrs. Kurpiel: Good evening Mr. Chairman and members of the Commission. My name is Patricia Kurpiel and I live in the Accokeek Creek watershed. And tonight I did want to say a few words about Dr. Fullers work on your fiscal analysis. I was really quite disappointed for a number of reasons, not the least of which is on page 5 of his proposal. Dr. Fuller was going to study the build out for 2008 and 2010. And he did not in fact study the build out. Some other numbers were used which did not reflect the full build out. But we were fortunate that Dr. McMath came before you and did share those numbers for the full build out. For 2008 you will recall it was a negative six million and based on the 2010 build out of ninety one thousand units, the negative was thirty one million. Now I want to say that I really do not find the methodology that Dr. Fuller used appropriate for the task at hand. And three problems with it are that there is no analysis of the agricultural area. We only looked at commercial, industrial and residential. Ag is important to our people. It was left out. The second drawback of Dr. Fuller's work is it grossly understates infrastructure. The third point is it does not...the methodology does not consider the increasing cost that we have experienced on a per capita basis. So I know that many of you are concerned about the ninety one thousand dollar...ninety one thousand unit build out. You consider it unrealistic. I have a suggestion. You could change the legislations...the TND legislation which allows the ten dwelling units take it down to four dwelling units which is consistent with what the state is proposing. That is something that you all could do. Now I would still like to see a good financial analysis and I don't think this was it. So I am going to give you as I walk away from the podium a list of the assumptions that were in the financial impact model that we worked on in 2005. And Mr. Chairman I would be glad to work with you or any of the

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other Commission members to review those assumptions and I would be glad to run that model for you based on the maximum build out of the ninety one thousand units. Thank you very much.

Mr. Howard: Thank you. Anyone else wishing to address the Planning Commission may do so by stepping forward to the podium.

Mr. Waldowski: Paul Waldowski. Three hundred sixty-four more days to the next election, see I am a math wizard also. 1982 the Board of Supervisors and Planning Commissioners worked on what I call a UDA, an undeveloped area that became a subdivision that became Stafford Meadows. There was rejection from one Planning Commissioner according to the minutes that I read. But from 1983 to 1987 one hundred and forty three townhouses were built. And as an after thought 1988 and 1989 sixty six condominiums were also built and they were called Stafford Meadows Roman numeral two according to the records in Richmond. Now each one of these dwellings has their own water meter and the only reason I came here tonight was so I could deliver my water bill. And the other fortunate part of this subdivision is there was not storm pond. Now one of the things I was browsing just before I came here is since we are looking at UDAs and you want to put townhouses and condominiums. You have the perfect model of Stafford Meadows or you can also go to Sunnysdale Meadows which is on the opposite side across from Lowes directly in back of the commuter parking lot that was extended where softball fields could have been put if you would had put a vertical parking garage which could be used in the evenings for the players and their fans. Now we all look at resolutions and I really think that Stafford County needs to provide a resolution to the proffer policy for residential elements for applications. There are lots of ways that you can make these developers provide the money up front especially to maintain these storm ponds that individual citizens are responsible for. Now you know we are fortunate to live in Virginia and Jefferson is one of my favorite individuals because he always put across how important it was to judge independently and be an individual. And though he also was for groups and collectivism, but even when he wrote life, liberty and the pursuit of happiness he really wanted to write life, liberty and the pursuit of property. But the reason he didn't use property is because they were human beings and he realized, especially Jefferson did, that slavery existed. And we all know one person makes a difference. So in closing let me keep reiterating that we didn't have a comprehensive plan in 1982. We did one in 1988 and now you are doing one in 2010, so try to use history as a lesson. Thank you.

Mr. Howard: Thank you. Anyone else wishing to address the Planning Commission may do so by stepping forward. I do not see anyone advancing from the gallery, so I will close the public presentations and now open up the public hearings. And, again, the first public hearing on our agenda this evening is an amendment to the Zoning Ordinance to Section 28-256. And we'll hear from staff on this.

PUBLIC HEARINGS

9. Amendment to Zoning Ordinance - Amendment to Section 28-256, Required standards and improvements generally, of the Zoning Ordinance pursuant to proposed Ordinance O10-47. Section 28-256 stipulates the minimum vehicular travel width on a parking lot for the parking areas, inter-parcel access, drive-thru lanes, and stacking lanes. In addition, Section 28-256 requires parking lots to be paved, not gravel. Currently, the Board of Supervisors (Board) may grant a waiver of these requirements. Under proposed Ordinance O10-47, the agent to the Board may grant the waiver for these requirements. **(Time Limit: November 16, 2010)**

Mrs. Hornung: Thank you Mr. Chair, members of the Planning Commission. This Ordinance, O10-47, is an amendment to the Zoning Ordinance for Section 256. The Board of Supervisors had developed a Board Development Review Committee that looked at some of the processes and we're looking at ways to streamline our processes. Some of them, they've already come before you. This is one of the other processes that they felt that we could streamline and move it from Board approval to

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agent approval, which would be the Subdivision agent. Section 256 relates to required standards and improvements and that's for travel lane widths and paving waivers. And currently, anybody who... any particular organization which would be a church, 501(3)(c) non-profit organization, they're the only ones that could obtain a paving waiver or travel lane width waivers. And that would have to go to the Board and that could take thirty to sixty plus days depending on the Board's agenda schedule; and also a fee of over \$3,000. What this does is this change or amendment to the Ordinance which is Section 28-156(c)(3) that the Fire Marshall and Department of Public Works would be able to grant the exceptions for the minimum specifications so that it wouldn't affect public safety for the travel lane widths. And also, the paving waivers would be by the agent and it would have to be in writing. So, the only thing that's amending this is taking the authority, or the Board is passing the authority from themselves to the agent to let it be more administrative than through the public hearing process, by going to the Board. And the other section is 28-256(c)(5) which discusses the interior travel lanes, driveways and parking bays, how they are constructed in accordance with the County. And for that, written appeal could be made within sixty days of the agent's decision if the applicant or owner is aggrieved of the decision by the agent. And if you have any questions...

Mr. Howard: I'll bring it back to the Commission. Are there any questions of staff? So, Mrs. Hornung, from my perspective just for clarification, right now Section 28-256 grants the Board the authority to provide relief to churches, clubs, fraternal organizations and other uses that have infrequent traffic demands to install gravel surfaces rather than paved surfaces for parking lots?

Mrs. Hornung: Yes sir, that's correct.

Mr. Howard: Okay. So, what are some other types of uses that we have seen come through in the past, other than what's specifically mentioned?

Mrs. Hornung: I don't recall any others in particular. Most of them are usually the churches and the non-profits; they're the ones that we're able to...

Mr. Harvey: Mr. Chairman, we've also had plant nurseries and some other seasonal type of activities. I believe portions of the Renaissance Faire, when it existed, had a partial waiver for some of its parking.

Mr. Howard: Because that was more seasonal use?

Mr. Harvey: Yes.

Mr. Howard: Okay. And is there a certain threshold on traffic that has to be met as part of that traffic demand?

Mr. Harvey: No; it's not stated what infrequent use means.

Mr. Howard: Okay.

Mr. Harvey: But from a practical standpoint, it wouldn't be everyday use.

Mr. Howard: Okay.

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Mr. Fields: I have a question. Was it considered... if this is going to, in the process if this goes simply to administrative review... so this is done primarily exclusively for cost. Was it ever considered that if the waiver would be from a paved surface to a type of pervious paving surface because to just gravel of course is just as impervious as asphalt. So, I'm not sure... So, the whole thrust of this is simply to reduce the cost of, paving cost, to the applicant right?

Mrs. Hornung: That is correct; the cost and the time.

Mr. Fields: Okay. So, then going to pervious pavers would not reduce the cost or time, right? Are they as expensive now? I mean, I know the price varies depending on the methodology but is it considered that pervious paving type of solutions are just as expensive as paving?

Mrs. Hornung: I honestly am not well-versed on the cost of those different facilities. But seeing what the cost of paving, I presume that the paving cost would outweigh a lot of the other cost as we've seen in some subdivisions. But I honestly don't know the answer to that question.

Mr. Fields: Because if you're talking about a place that's infrequently travelled, it would seem to me better to, and you're not going to have the review done by the Board, it would seem to me... so, you don't know that it was never discussed or not part of the idea is that possibly substituting pervious paving for paving would be the solution, it would be just gravel was the solution?

Mrs. Hornung: Well, I think we allow pervious pavers. I know for stormwater management they've allowed it in some cases.

Mr. Fields: I guess what I'm saying is that the relief would be from paving but the requirement would be that it would be pervious, not just simply allowing gravel. That concept wasn't discussed?

Mrs. Hornung: I'm not aware of that; I don't recall.

Mr. Fields: Okay, thank you.

Mr. Howard: Thank you. Any other questions? Ms. Kirkman?

Ms. Kirkman: Just to clarify, this is about more than paving though, correct? This is not just about getting waivers for the type of surface, it's also about widths and turn lanes and other requirements?

Mr. Howard: Yes.

Mrs. Hornung: That's correct. Widths, turn lanes and paving.

Ms. Kirkman: Thank you.

Mr. Howard: Okay, we'll open it up for public hearing. Anyone wishing to address the Planning Commission on Resolution R10-257 which is also proposed Ordinance O10-47 may do so by stepping up to the podium. And you have three minutes to address the Planning Commission. We won't address you back but we'd certainly love to get your input. When the green light goes on you can begin speaking, the yellow light gives you about a minute left and then the red light indicates you should conclude your comments. We just ask that you state your name and address. Seeing no one

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rushing to the podium I will now close the public hearing on the amendment to the Zoning Ordinance and bring it back to the Planning Commission.

Mr. Fields: Is there a time limit on this?

Mr. Howard: Mr. Harvey, what's the time limit on this?

Mr. Fields: November 16th. Does that mean we have to act tonight? Because we don't meet till November 17th, right?

Mr. Harvey: That is correct.

Mr. Howard: That is the case on all of them, all four. Alright, I'll open it up for discussion on the Planning Commission.

Mr. Fields: We don't have a motion yet, do we?

Mr. Howard: No, but we can... if there's any other comments or questions before a motion is made. Anybody want clarification on anything?

Mr. Fields: Well, if nobody will make a motion, I'll make a motion to recommend denial to the Board of Supervisors based on, I think, a missed opportunity to look for a better solution on the paving requirements and also based... well, I'll just make that motion. That would be my recommendation is denial.

Mr. Howard: Is there a second?

Ms. Kirkman: I'll second.

Mr. Howard: Okay. Now we're in discussion on Mr. Fields' motion.

Mr. Fields: Just to finish up, I think... I understand the need to streamline and I'm sympathetic to that. I think as we see in a lot of these issues, whether it's a little more cumbersome or not, there's an inner-play of having a public dialogue about a lot of these issues that I know some people may find cumbersome. And I certainly hope, if it's onerous and unfair, that we can address it. And I'm not casting any aspersions on the integrity of the administrative review process but that's why we have these things; where people come to the Board or the Planning Commission or the BZA and discuss exceptions to the rule in a public way with people that are citizens like us. I mean, we try to get up to speed on things but we're not necessarily experts; but that allows for a different perspective and a different input on things quite often. And so I feel that while this... I'm sure the intention here was reasonable; believe me, not to place onerous burdens on property owners that are not necessary, I think the transparency of the public application for waivers in this case is still a bit more in the public interest than what's proposed here.

Mr. Howard: Okay. Ms. Kirkman, do you have any comments? You seconded it so you would go next.

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Ms. Kirkman: Yes. A waiver is a special favor and I think if people get special favors, they should have to go through a public process so everybody understands exactly what's happening.

Mr. Howard: Thank you. Any other comments from any other Commissioners? Alright, my comments would be I'm not sure that we did think through this completely in terms of pervious versus impervious. And the fact that there's some seasonality to many of these businesses... some of it is weekly seasonality if it's a non-profit and it's a place of worship, so that could be weekly. But there certainly should be some I think additional thought given. I'm not sure if I agree with all the comments but I probably am going to vote to also not support this because I'd like it to come back with an opportunity to kind of go through some more detail on it. Any other comments? I will call for the motion and again the motion is to deny Resolution R10-257 and proposed Ordinance O10-47. All those in favor of Mr. Fields' motion signify by saying aye.

Mr. Rhodes: Aye.

Mrs. Hazard: Aye.

Mr. Fields: Aye.

Mr. Mitchell: Aye.

Ms. Kirkman: Aye.

Mr. Hirons: Aye.

Mr. Howard: Aye. Opposed? The motion carries 7-0. The next item on the public hearing portion of tonight's agenda is an amendment to the Zoning and Subdivision Ordinances, and that's amendment to Section 22-4 which is definitions and Section 22-176 which is the famous PAE, private access easement, of the Subdivision, and Section 28-25 which is the definition of terms of the Zoning Ordinance pursuant to proposed Ordinance O10-46. We will now hear from staff.

10. Amendment to Zoning and Subdivision Ordinances - Amendment to Section 22-4, Definitions, and Section 22-176, Private access easement ("PAE"), of the Subdivision Ordinance, and Section 28-25, Definition of specific terms, of the Zoning Ordinance, pursuant to proposed Ordinance O10-46. Currently, the Planning Commission approves an application for a private access easement (PAE). Proposed Ordinance O10-46 authorizes the agent or designee to approve a PAE, instead of requiring Planning Commission approval; it clarifies the difference between a PAE and an ingress/egress easement; and it makes definitions in the subdivision and zoning ordinances consistent. **(Time Limit: November 16, 2010)**

Mr. Harvey: Please recognize LeAnn Ennis for the presentation.

Mr. Howard: Thank you.

Mrs. Ennis: Mr. Chairman and members of the Planning Commission, item number 10 is a request to amend the Zoning and Subdivision Ordinance. The Planning Commission is requested to consider a proposed amendment to Section 22-4, Definitions, and Section 22-176, Private access easement, of the Subdivision Ordinance, and Section 28-25 of the Zoning Ordinance, Definition of specific terms

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pertaining to private access easements. The Board established a committee to review the development processes and fees, and streamline as necessary. It was determined that the current process for approval of the private access easement (PAE), serving two or fewer properties within a minor subdivision, may not be time and/or cost effective. A private access easement is a means of access for a newly created lot of a minor subdivision which does not have frontage on a public street. A private access easement currently can only serve up to two lots, including the lot that it travels through. The process now requires the applicant to submit an application which must be approved by the Planning Commission at a cost of \$2,820. The Board of Supervisors approved Resolution R10-25 for the Planning Commission to hold a public hearing. The proposed amendment authorizes the agent to approve a minor subdivision plat with a PAE once it meets all the requirements of the Subdivision Ordinance. The applicant will no longer be required to submit a separate application and fee and then seek approval by the Planning Commission for a PAE. The proposed amendment will also require the definitions to be revised. Subdivision Ordinance Section 22-4, Definitions, includes definitions for the terms "easement, private access" and "private access easement". The Zoning Ordinance Section 28-25, Definitions of specific terms, includes definitions of "street, private access easement" and "easement, private access". The definition will be modified to remove the reference to the Planning Commission and will make both Ordinances consistent. The proposed amendment will clarify the difference between an ingress/egress easement and a PAE. An ingress/egress easement is not for the purpose of subdividing a piece of property; it is granting a means of in and out for an existing property that does not have frontage on a road. It could also be a piece of property that shares an access, such as a shared driveway, pipe stem or inter-parcel connection, within commercial projects. Staff recommends approval of the proposed Ordinance and where Ordinance O10-46 authorizes the agent to approve the private access easement with approval of the minor subdivision plat and amending definitions accordingly. Any questions?

Mr. Howard: Thank you. I'll bring it back to the Commission for questions of staff on this. Ms. Kirkman?

Ms. Kirkman: So, the way you presented it in your memo... in the memo and just now... the only difference between an ingress/egress easement and a private access easement is that the ingress/egress easement serves an existing lot and a private access easement serves a newly created lot.

Mrs. Ennis: Yes ma'am.

Ms. Kirkman: And, what are the standards for private access easements in terms of width, number of lots they can serve...?

Mrs. Ennis: That is written in the Ordinance. Do you want me to read them to you?

Ms. Kirkman: So there are some standards?

Mrs. Ennis: Yes.

Mr. Howard: Yeah, that would be good to hear that actually. That's a good question.

Mrs. Ennis: Alright. On a minor subdivision, the access easement to serve two or fewer properties, the roadway within the easement shall have a minimum width of at least ten feet. Lots less than five acres shall be served by an ingress/egress easement at least twenty feet wide, clear of any structures

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and vegetation. Lots five acres or larger shall be served by an ingress/egress easement at least fifty feet wide with a minimum width of twenty feet for the roadway clear of any structures and vegetation. Such easement shall not serve any property less than one acre in size and shall not serve as a through street; that is, it shall not intersect with any other road or private access easement. And then...

Ms. Kirkman: Could I just... before you go any further? You kept using the word ingress/egress easement.

Mrs. Ennis: I read it directly from the Ordinance.

Ms. Kirkman: But this is about private access easements, but we're using the term ingress/egress easements.

Mrs. Ennis: Ingress/egress means in and out.

Ms. Kirkman: Okay, I just want to make sure that these are the requirements for the private... even though it says ingress/egress and we're establishing a difference between ingress/egress, we're talking about private access easements.

Mr. Howard: It sounds like within the PAE Zoning Ordinance or reference you're mentioning, we use the word ingress/egress to describe in and out.

Ms. Kirkman: Alright.

Mrs. Ennis: And I just wanted to state that there were some further notes here, because I know the Planning Commission brought it up a little bit earlier, that there's some notes that get put on the plat and it tells them they are ineligible to be taken into the VDOT state road system and such. And it says until the roads are built to VDOT standards, they are not to ever seek to be a public road. But those are standard notes that staff puts on plats. I just wanted to point that part out.

Ms. Kirkman: And what are the standards for ingress/egress easements in terms of width...?

Mrs. Ennis: They do not have to come through our department.

Ms. Kirkman: So there's no standard at all for ingress/egress.

Mrs. Ennis: No ma'am.

Ms. Kirkman: So, if, as part of a subdivision plan, somebody has to move an existing ingress/egress easement or create one that goes to an existing lot, there would be no requirements for the minimum width or VDOT standards or any of those sorts of things.

Mrs. Ennis: So, if you're saying that the new, like earlier, new preliminary plan that came in and they have an existing ingress/egress easement that they want to relocate, staff would follow this rule and say that it needed to be a minimum width... for emergency purposes. We don't want to see a ten foot easement that goes back if the acre is bigger. We would encourage that this ordinance be followed to make sure that they have adequate road width for 911 purposes.

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Ms. Kirkman: You would encourage but there's no ability to require, is that correct?

Mrs. Ennis: Because it says it only follows for minor and family.

Mr. Harvey: The exception, Mr. Chairman and Ms. Kirkman, would be in the case of a site plan where we're dealing with non-residential uses. The Zoning Ordinance has a minimum travel lane width of twenty feet.

Ms. Kirkman: But we usually see these on residential applications, right?

Mr. Harvey: The ingress/egress easements you'd see on commercial more so than residential. Residential you typically see a private access easement through the process of subdividing property. On occasion like the one subdivision plan we had earlier tonight, you had a land-locked parcel and the proposal was to grant them an ingress/egress easement. It happens on occasion but it's not a regular occurrence.

Mr. Howard: Any other questions of staff? I have a question. What's the benefits to staff by this getting approved? What's the time it takes to go through something like this versus if this ordinance were to carry? I mean, is this something that's time consuming? Not time consuming?

Mr. Harvey: Mr. Chairman, the process is that the applicant starts with the private access easement application first. Typically they'll submit an application and once we deem the application to be complete, we'll take it to the next available Planning Commission meeting; that's typically forty-five to sixty days. There is also an administrative fee that the person pays in addition to the final plat. As far as advantages to staff, we're just processing the applications. The question might be one of frequency, whether this is something that's a significant issue for the County to consider or not. From a staff perspective, we get a limited number of these types of applications in a year, but it's I guess up to the Planning Commission and Board whether you think that, as we stated earlier, needs to be some public commentary on it.

Mr. Howard: Right. Okay, any other questions of staff? Ms. Kirkman?

Ms. Kirkman: I have one actually for the attorney. When the Planning Commission reviews an application for a private access easement, are they conducting an administrative function or a legislative function?

Mr. Smith: An approval of a PAE is part of the subdivision process so I'm going to try to stay away from the ministerial versus legislative versus administrative.

Ms. Kirkman: Well, ministerial; I'm sorry, that's the correct word.

Mr. Smith: And I think the best way to look at it is if the Planning Commission finds that a PAE meets the standards in its interpretation of the standards under the Subdivision Ordinance, then it should be approved. So, it's hard to say exactly where the discretionary aspect begins and ends because certainly the Planning Commission is the body that is, at this time, charged with interpreting the standards of the Subdivision Ordinance and applying them to the particular application before them. But if the Planning Commission determines it meets those standards, then unlike another type of legislative

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action, a rezoning where there is greater discretionary authority, a PAE approval is... the ministerial terminology is less discretionary.

Ms. Kirkman: Okay, thank you.

Mr. Howard: Any other questions? Okay, we'll open up for public hearing. Anyone wishing to address the Planning Commission on item 10 on the agenda which is under the public hearing section for this evening, which is obviously what we're discussing, Resolution R10-256, proposed Ordinance O10-46, may do so by stepping forward to the podium. And seeing no one rushing to address us on this particular issue during the public hearing, I will now close the public hearing and bring it back to the Planning Commission.

Ms. Kirkman: Mr. Chair?

Mr. Howard: Yes, Ms. Kirkman.

Ms. Kirkman: I'm going to make a proposal... a motion to recommend denial of this amendment to the Zoning Ordinance. I can state my reasons when we...

Mr. Fields: Second.

Mr. Howard: The motion is made and seconded. Okay, we're in discussion. Go ahead.

Ms. Kirkman: Well, as I said earlier, of course I believe the public process is important. But more important to that, I think this is one of the more poorly constructed amendments we've had before us in a long time in terms of this distinction that seems to be made between ingress/egress and private access easement, with the only distinction being whether it serves a newly created lot or an existing lot. Regardless of whether it's a newly created lot or an existing lot, it seems that the road width and the ability to meet VDOT standards ought to be the same. In addition to that, based on a conversation, it seems like what's a better distinction is between ingress/egress easements that may serve a function in a commercial development versus what are essentially private access easements in a residential subdivision. So, for that reason, that's why I made the motion to recommend denial.

Mr. Howard: Okay, thank you. Mr. Fields?

Mr. Fields: I think over the course of the years one of the most complicated... of course, my term on both the Board and Planning Commission, I think the nature of private access easements is one of the most wildly variable and complex things. Even though it seems like it ought to be straightforward, I've never seen one that really is straightforward. There's a lot of conditions and there's a lot of specificity to land and context and community and things like that. And while again, once again, if the process is unnecessarily onerous to the applicant and land owner, then let's look at what makes it onerous and solve that problem. But, once again, with all due respect to staff's ability to interpret the code, I find that both on the Board and the Planning Commission that granting and working with private access easements is a highly nuanced endeavor that cannot be as... because staff, of course, both by requirement and by their professional integrity, they don't nuance these decisions. They have to follow the code to the letter of the law. I think though we do as well as does the Board, the application of the PAE is a very nuanced reality in my experience. So, I don't believe that this change to the code is ultimately... not only is it not in the public interest, I believe that actually as this works

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out people, though they may think this is easing the burden on the landowner, I think the nuancing of private access easements is also going to... they'll find that this application is not in the best interest of the landowner either.

Mr. Howard: Any other comments from Commissioners? Mrs. Hazard?

Mrs. Hazard: Yes. I too will be opposing it as well, partly I don't want to lose the dialogue that we've had about the differences between ingress and egress and private access. I hope we don't lose that discussion and potentially bring that back to us, but I'm not sure we've quite gotten how the definitions... I mean, we clearly find that there are some nuances and some issues. Maybe we've identified an issue we need to pursue. But I'm not currently comfortable with what maybe we're currently doing, not from an integrity standpoint but where we go forward we need to maybe study where we've been to make sure that the ordinance that we, or any changes we make are consistent with where we want to go in the future.

Mr. Howard: Thank you. Any other comments? Mr. Hirons?

Mr. Hirons: Mr. Chairman, you may have to help me with Roberts Rules of Order, but I believe I want to make a substitute motion to recommend approval of the proposed Ordinance.

Mr. Mitchell: Second.

Ms. Kirkman: Mr. Chair, a point of order. A substitute motion is out of order if it is effectively dealt with by voting on the primary motion.

Mr. Howard: Ms. Kirkman is right. You could make a substitute motion that had a word change or something different, but your outcome is achievable by voting the opposite way of the motion; so that would be correct. Ms. Kirkman's comment is correct. So, in other words, you could make a motion, a substitute motion, but you'd have to change something in context other than just reversing the motion that's on the table.

Mr. Hirons: Right. And as I understand, the motion that was made was recommend denial. Does a nay vote and a nay majority result in recommending approval automatically?

Mr. Howard: No. At that point, a motion can be made to recommend approval.

Mr. Hirons: Very good.

Mr. Howard: Any other discussion? If the motion carries, that cannot occur though. You understand, right? Okay. Any other comments? Okay, hearing none I will call for the vote. All those in favor of denying the Resolution and proposed Ordinance in front of us, you would signify by saying aye. All those opposed you would signify by saying nay. So, all those in favor of Mr. Fields' motion signify by saying aye.

Mr. Fields: Ms. Kirkman's motion.

Mr. Howard: I'm sorry; Ms. Kirkman's motion, signify by saying aye.

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Mrs. Hazard: Aye.

Mr. Fields: Aye.

Ms. Kirkman: Aye.

Mr. Howard: Opposed nay?

Mr. Rhodes: Nay.

Mr. Mitchell: No.

Mr. Hirons: Nay.

Mr. Howard: Nay. Alright, the motion is defeated 4-3.

Mr. Hirons: Now I can make my motion. I will move to recommend approval of proposed Ordinance O10-46.

Mr. Mitchell: Second.

Mr. Howard: Okay, just for clarity sake, Mr. Fields or Mr. Smith, the motion is on both the Resolution and the proposed Ordinance? Or how would...?

Mr. Fields: The Resolution is simply the Board's Resolution.

Mr. Howard: So it's just the proposed Ordinance; okay, my error. So there's a motion that's seconded on the table to now approve proposed Ordinance O10-46. Is there any discussion?

Ms. Kirkman: Mr. Chair, I'm going to oppose the motion to approve this. As I said, I think it's one of the most poorly constructed amendments we've seen in front of us in a long time. And in terms of its practical application, there's absolutely no reason why there should be different standards for private access easements because one serves a newly created lot and the other serves an existing lot.

Mr. Fields: I have seen way too many consequences. There is a classic example when I was on the Board of it being created a long time ago and that's what lead to a lot of the new standards is one example of there was a private access easement of ten feet in width that was several hundred in feet in length. It went probably close to half a mile. The access easement was granted at ten feet because it was essentially open farmland and it was just said, well we'll just give you... it seemed assuming that all people are reasonable and fair it seemed reasonable that that was ten feet of travel way on a dirt road leading back to an agricultural lot with a house on it. That was fine. But the property changed hands through which the lot passed. The property owner decided that he really wanted to force the issue and didn't really want those people having access to their newly built house and so he put a board fence right on the ten foot easement, the other side which was against a hedge. It almost made it impossible to drive a car down there and it made it impossible, physically impossible basically for an emergency vehicle to go down the road unless they decided, as some of the people from the fire and EMS community suggested that a chainsaw could make short work of the fence if they had to get down there. But, the point being is the people were being prohibited reasonable access because of an

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interpretation. This is the type of thing that happens all the time. It doesn't happen all the time, but it happens. And this is where the review in the public arena is worth a lot, to make sure the rights of all the land owners involved in the public access easement are preserved. Right now the problem is, is that review of the big picture of the community, which is what we're charged to do, it does not exist in an administrative review.

Mr. Howard: Any other comments? Okay, I'll call for the vote. All those in favor of Mr. Hirons' motion which is now approving proposed Ordinance O10-46 signify by saying aye.

Mr. Rhodes: Aye.

Mr. Mitchell: Aye.

Mr. Hirons: Aye.

Mr. Howard: Aye. Opposed nay?

Mrs. Hazard: Nay.

Mr. Fields: Nay.

Ms. Kirkman: Nay.

Mr. Howard: The motion carries 4-3. We're now up to item 11 on the public hearing... or on the agenda which is under the public hearing section, Amendment to the Zoning Ordinance, proposed Ordinance O10-48 which amends Section 28-245. And we'll hear from staff on that.

11. Amendment to Zoning Ordinance - Proposed Ordinance O10-48 amends Section 28-245, When Required, Section 28-246, Fees, and Section 28-249, Contents of site development plans, (which is re-titled "Contents of final site development plans") of the Zoning Ordinance. Proposed Ordinance O10-48 deletes all references to preliminary site plan requirements from the zoning ordinance. **(Time Limit: November 16, 2010)**

Mrs. Hornung: Good evening Mr. Chairman, members of the Commission. This next item for you to consider is Ordinance 10-48 which applies to Sections 28-245, when required, 246, fees and 249, contents of site development plans of the Zoning Ordinance. As stated before with some other Ordinances the Board established Committee with Mr. Crisp and Mr. Milde had reviewed the development processes and fees and this was another one of the items that were recommended for the Planning Commission to consider. Preliminary site plans are required prior to any major site plan submission in which more than two buildings are being developed or proposed on a non-residential piece of...zoned piece of land. And what happens is the applicant would have to submit basically another site plan to show those additional buildings and all the requirements that are set forth in the ordinance showing those buildings with transportation and utilities. And then once that would be approved they would come back in and submit basically an identical with a little bit of more detail major site plan to show all those items. And so by eliminating the preliminary site plan and it will actually eliminate one process and the fee that was originally required for the applicant and they would go straight to a major site plan in which a lot of the information that is normally required would be reviewed for all the structures and all the proposals on that parcel. Typically we have a generalized

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development plan through a rezoning or reclassification that we will see a number of these buildings so there have been I believe I brought it to you that in about ten years there might have only been a handful of preliminary site plans that were even submitted and maybe three or four that were ever approved. So it is not something that the applicants are... we are not getting a lot of applications of preliminary site plans because there is also a provision that they can ask the subdivision...the agent for the Board which is the Planning Director...the Director of Planning and Zoning for a waiver, and so most of the time those waivers were granted or the site plans were submitted piece meal for one building or two buildings at a time. So by removing this preliminary site plan requirement it doesn't reduce the amount of information that is required on a plan nor does it reduce anything that has to do with review of that plan. The applicant would still be required to show all the requirements that are set for the in the Zoning Ordinance as well as VDOT and the Health Department if that is applicable. And your time limit is also November 16th because it was sent from the Board. And staff recommends approval of this Ordinance O10-48 that would modify those sections 245, 246 and 249 of the Zoning Ordinance. If you have any questions I would...

Mr. Howard: Thank you.

Mrs. Hornung: Be glad to answer those.

Mr. Howard: I will bring it back to the Commission. Are there any questions for staff? Ms. Kirkman.

Ms. Kirkman: On those instances where there were preliminary site plans submitted was that because they had requested a waiver and were not granted it?

Mrs. Hornung: I am not aware of any waivers that were not granted. I think that they may have chosen to submit it. I don't know if Mr. Harvey knows of some of those. I think it was Stafford Market Place, I don't recall any other particular who submitted.

Mr. Harvey: For the most part they were parts of shopping centers where you had multiple buildings. Typically most developers only submit a site plan for one building at a time so they would get around the regulation. In cases where waivers may have been granted in the past is where they had a proffered GDP or a condition GDP that they had to comply with. So the GDP requirements are very similar to the preliminary site plan requirements.

Ms. Kirkman: And if they did not proffer or have a conditioned GDP then they would do a preliminary?

Mr. Harvey: If they have more than three buildings they are proposing to move forward with. Again typically the developer will only do one building at a time so they would bypass the process to do the preliminary site plan.

Mr. Howard: Are there any other questions for staff on this? Okay hearing none I will now open up the public hearing. Anyone wishing to address the Planning Commission on item 11 on our agenda which is an amendment to the Zoning Ordinance O10-48 which amends Section 28-245, Section 28-246 and 28-249 may do so by stepping forward to the podium. Seeing no one advancing to the podium, I will now close the public hearing and bring it back to the Planning Commission. Are there any questions for staff on this issue?

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Ms. Kirkman: Ah, yes. What will happen with properties where there is no GDP?

Mr. Harvey: For properties where there is no GDP they would be required to go to a final site plan.

Ms. Kirkman: So there would not be any preliminary?

Mr. Harvey: Correct.

Ms. Kirkman: And there would be no GDP?

Mr. Harvey: Correct.

Mr. Howard: And today if that were the case they would have the preliminary and then go to the final site plan, is that right?

Mr. Harvey: Correct. And that is for two or more buildings.

Mr. Fields: Mr. Chairman. So what you are saying Jeff is that...well in theory this might be able to capture none GDP parcels, what happens is because of the way it is written it's...people just end run it anyway. It's end run by just doing one building, right?

Mr. Harvey: Typically yes.

Mr. Fields: Which doesn't really solve... the intent is to try to kind of get a first glimpse at the overall big picture of the development, right?

Mr. Harvey: Correct.

Mr. Fields: So right now this doesn't function to help you guys in planning to get a big picture or view of the development, right?

Mr. Harvey: Not very well.

Mr. Fields: Yeah, okay. Is there anything about a plan... my concern is you know the non GDP... while the GDP sounds like a good...I have also seen some... we have seen some commercial applications in the last few years where proffering a GDP is not necessarily a great idea either. There is just sometimes when that is not necessarily the best idea. So I am concerned... where at that point, if we eliminate this, which has a loop hole anyway and we don't have a GDP, where does the big picture get looked at? Only when they finally submit the total plan? The major site plan?

Mr. Harvey: Yes and sometimes if it is going to be a multi-use complex they will submit infrastructure plans for the main access drive and turn lanes and that nature, but from that point then they have to give some idea of traffic counts and those types of things. But typically we could see that in the context of a rezoning but for stale zoning that may not exist.

Mr. Fields: So for vested zoning there may not be either, the GDP or a preliminary site plan?

Mr. Harvey: Correct.

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Mr. Fields: And then they just go right to final construction?

Mr. Harvey: Yes and as I said in most cases they start with one building at a time rather than building multiple buildings at the same time on the same plan.

Mr. Fields: So right now even that, the major plan... even the major site plan process is slightly... the final site plan process is still flawed in the sense that you still can get a commercial project building out one piece meal without getting a look at the big picture.

Mr. Harvey: Correct.

Mr. Fields: So that even the final plan is... has got that kind of problem.

Mr. Harvey: Well the final plan is the ultimate plan for that building.

Mr. Fields: For that building.

Mr. Harvey: But it is not necessarily the larger complex.

Mr. Fields: I have to admit I am... that is how you get... I am teaching lessons up in Garrisonville now. You guys that live up there have probably noticed this. Pulling in to the Wawa on Garrisonville Road near 95, when you pull in you pull straight into the exit of the bank drive-through. You technically can't pull right into the Wawa, although it seems everybody pulls to the do not enter. Is that the kind of thing that happens when you piece meal sites into a major development? Because that is obviously one of the most absurd things I have ever seen. I hope I did not vote for that.

Mr. Rhodes: You actually pull in down just past that, between that and the Toyota dealer. That is where I always pull in.

Mr. Howard: Yes, (inaudible).

Mr. Rhodes: Because the bank has got a no go through. That is where I see a lot of people going.

Mr. Howard: The issue there is that the Toyota shares that... that is a shared driveway.

Mr. Harvey: Yes it is.

Mr. Fields: It is just an odd... it is a very odd configuration to pull in off of a major highway and then be... because there is an entrance driveway to the Wawa right there, right past the point where it says do not enter.

Mr. Howard: That is across the easement.

Mr. Fields: And then you go across the... you know... so I mean is that the types of thing or some of the things we have seen in Doc Stone where we have some very strange configurations... are those the things that happen when the stuff piece meals itself?

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Mr. Harvey: In both of those cases they either had a proffered GDP or I believe Doc Stone had a preliminary site plan, because they had designed an internal access road, Worth Avenue as being the main artery within the project. With the Wawa case they had their plans approved with the car dealership and the hotel and a bunch of other uses there and they identified the access point on the GDP's. Ultimately VDOT made some modifications to it because of their access management requirements.

Mr. Howard: But I guess what Mr. Fields is asking is you know... how by taking this off the table can we still get beat and isn't it better for the County to have a full view of the project, which I think we all would agree with. So, and I think the examples are because those are separate... I think those were separate, I know they are separate entities. I am assuming they are separate land owners. I don't know that for sure though. I think you are going to have that no matter what happens, someone coming in with one building and then there is an adjacent parcel that turns into a different building. But how do we protect the County? Does this... what does this do for us other than we don't have to... we won't be looking at the preliminary subdivision... the preliminary plan rather, development plan. But that may not be a good thing I guess is really the concern that we have.

Mr. Harvey: That is a legitimate concern. As I said earlier I think the process with these preliminary site plans is somewhat broke because there is the end around for that.

Mr. Howard: Was this an economics issue from applicants to try to kind of restart things here? What was the origin of the thought process from the Board on this?

Mr. Harvey: Well, I think part of it is time and cost. I think those are the two main factors because a preliminary site plan has to be approved before you proceed with your final site plan. You have a number of months involved in plan review and there is an extensive fee as well.

Mr. Howard: Do you know what Spotsylvania does? Or Prince William?

Mr. Harvey: I do not recall.

Mr. Howard: Okay.

Mrs. Hazard: Mr. Chairman.

Mr. Howard: Yes Ma'am.

Mrs. Hazard: I guess the question too is staff time. Under the current regime of what we have here, is it duplicative time? Is it... how does it help... does it help or hurt staff to have this with the two cases? The two requirements now?

Mr. Harvey: Well, in theory the preliminary site plan gives you a better view of your inter-parcel access conditions, your access points, stormwater management and also utility design. You do run into some problems if you do not have some of that figured out in advance. It may be that in the end run it cost the developer more money because they may have to tear out and reconstruct. But as far as bringing new businesses into the County it does have a delaying effect.

Mr. Howard: Right, that is why I was wondering what the other counties did.

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Ms. Kirkman: Mr. Chair?

Mr. Howard: Yes Ms. Kirkman.

Ms. Kirkman: In the spirit of moving this along, I am going to make a motion to recommend denial of proposed Ordinance O10-48.

Mr. Fields: Second.

Mr. Howard: Motion made by Ms. Kirkman to deny O10-48, seconded by Mr. Fields. Is there discussion?

Ms. Kirkman: Mr. Chair, again what this Ordinance does as the previous two Ordinances did is it removes from the public view the process... the decision making process. Because the final is not reviewed by the Planning Commission it is only reviewed administratively. What is clear is that when a site plan is submitted it's because there are more than two building going up, in other words it is a much larger development and we have got eight proposed UDA's with millions of square feet of commercial which means large scale developments and all of that could go forward without any public process. That really concerns me. Secondly it doesn't fix the problems that have been identified in the process and lastly the reason for this has been clearly stated. It was clearly stated in the Board packet and it is stated in our packet, which is eliminating the requirement for a preliminary site plan could save developers substantial time and money and I believe the roll of this Commission is to protect the public interest, not to save developers time and money.

Mr. Howard: Any other...

Mr. Fields: Yeah, my reasons... I certainly don't disagree with any of those reasons. Also my actual reason for also weighing into my motion... seconding the motion and wanting to vote a recommendation of denial actually has to do with the lack of time frame. This is actually... this... our discussion clearly points to a broader and systemic problem with getting a big... about how we require... how these plans sort of filter in one at a time and since we are at the time limit we really can't make an alternative recommendation which would I think probably be the most constructive solution here rather than approving or denying... recommending approval or denial of this specific Ordinance. I think going back and starting to work possibly on solving the problem from a different angle and addressing this inability of the County to get a grasp of the big picture because of these different things in the code.

Mr. Howard: Thank you. Any other...

Mr. Hirons: Mr. Chairman, I am going to oppose the motion itself. I don't think... I think we've... it's kind of been demonstrated that the process as a whole is broken but this piece of the process is not necessarily a broken part of it. It seems like a logical step to take to ease burdens on land owners, staff, everyone who is involved so I am going to oppose the motion.

Mr. Howard: Any other comments? Okay, hearing none I will call for the vote. The motion is to deny proposed ordinance O10-48. All those in favor signify by saying aye.

Mr. Fields: Aye.

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Ms. Kirkman: Aye.

Mr. Howard: Opposed?

Mr. Rhodes: No.

Mrs. Hazard: Nay.

Mr. Mitchell: Nay.

Mr. Hirons: Nay.

Mr. Howard: Nay. Motion did not carry 5-2.

Mr. Hirons: Mr. Chairman. I would like to go through the same process and make a motion to approve... recommend approval of proposed Ordinance O10-48. I think that is the one we are on, right?

Mr. Howard: Right, that is correct.

Mr. Mitchell: Second.

Mr. Howard: Second by Mr. Mitchell. Okay, any discussion?

Ms. Kirkman: Mr. Chair, I will repeat that I am opposed to this. We have got a Comprehensive Plan that proposes something like thirty million square feet of commercial development. And that means that all of that commercial development, the plans for that would occur essentially behind closed doors without a public process and I am opposed to that.

Mr. Howard: Thank you. Any other comments? Just a comment on that, the... while it is true that the Comprehensive Plan calls for specific commercial growth there is an incredible amount of work that has to be done if that Comp Plan actually does see the light of day in terms of getting passed at some point. In terms of really redoing a lot of the Zoning Ordinance that is out there to include things like form based code and other things that don't exist in our County today that I believe will give us the view that we all desire to have in terms of the bigger picture and the potential impacts down the road. So, there is a lot of work to be done on that yet if that were to move forward. I am going to support the motion because I think at the end of the day where there is people going around the process anyway and I think there is a bigger issue. I think Mr. Fields said it and said it well, I think this has to come back at some point before us anyway and I am sure it will through the Comp Plan at some point when we have to go through a lot of the Zoning that is out there and in an effort to kind of expedite some of the development in the County I am going to support this. But I am not supporting it because I don't want to look at these plans, I do and I want to have input and I want the Commission to do it and I would like to see it done in public view, but I am going to support this motion. Okay, I will call for the vote. All those in favor of the motion on the table which is to approve... recommend approval for proposed Ordinance O10-48 signify by saying aye.

Mr. Rhodes: Aye.

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Mrs. Hazard: Aye.

Mr. Mitchell: Aye.

Mr. Hirons: Aye.

Mr. Howard: Aye. Opposed, signify by saying nay.

Mr. Fields: Nay.

Ms. Kirkman: Nay.

Mr. Howard: The motion carries 5-2. Thank you. Item 12 on the agenda is an amendment to the Zoning Ordinance which is O10-42 which amends Section 28-124, types permitted in the A-2 districts and R-1 of the Zoning Ordinance and adds a new section, Section 28-124.1, and that's types permitted in R-1 districts to the Zoning Ordinance.

12. Amendment to Zoning Ordinance - Proposed Ordinance O10-42 amends Section 28-124, "Types permitted in A-2 districts and R-1 districts," of the Zoning Ordinance and adds a new section, Section 28-124.1, "Types permitted in R-1 districts," to the Zoning Ordinance. Proposed Ordinance O10-42 deletes from Section 28-124 all of the provisions regarding permitted signs in R-1, Suburban Residential zoning districts and includes all of those provisions in Section 28-124.1. Proposed Ordinance O10-42 amends Section 28-124 by adding school signs as a type of sign permitted in A-2, Rural Residential zoning districts. **(Time Limit: November 14, 2010)**

Mr. Harvey: Mr. Chairman, Ms. Hudson will be making the presentation.

Mr. Howard: Thank you.

Ms. Hudson: Good evening Mr. Chair and members of the Planning Commission. The proposed Ordinance O10-42 amends Section 28-124 of the Zoning Ordinance, which is types permitted and types of signs in the A-2 and the R-1 district. The Board of Supervisors requested staff to make a recommendation to allow signs for private schools in the A-2 Zoning District. In order to affect private schools in the A-2 Zoning District, the Zoning Ordinance needs to be amended to separate the types of signs allowed in the A-2 and the R-1 Zoning Districts. Proposed Ordinance O10-42 amends Section 28-124 to allow private school signs and amends the title of the section to read "Types Permitted in A-2 Districts". R-1 districts will be removed from Section 28-124 and be addressed in the new Section 28-124.1, "Types Permitted in R-1 Districts" with no changes. If you have any questions, I will be glad to answer them.

Mr. Howard: Thank you. Are there any questions for Ms. Hudson or staff on this? We're just trying to read that definition I think on what constitutes a school. Could we have the definition of school which is in the Zoning Ordinance?

Ms. Hudson: Yes. School - any building or part thereof which is designed, constructed or used for education or instruction in any branch of knowledge, excluding industrial or vocational schools or any

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schools owned and operated by the Stafford County or the Commonwealth of Virginia. Therefore, a private school would fall under the definition of school.

Mr. Howard: Right.

Ms. Kirkman: Just to clarify, we have had a lot of discussion about this and the staff has addressed the concern by adding under... that they would be accredited, correct?

Ms. Hudson: Yes. That's in the proposed... under school signs, provided that (e) the school shall have a regular enrollment of at least fifty students grades K through 8, and shall be accredited by a Virginia Counsel for Private Education Approved State Recognized Accrediting Member.

Mr. Howard: Perfect; thank you.

Ms. Kirkman: I believe, Mr. Chair, the concerns that have been raised by the Commission were addressed by the addition of that language.

Mr. Howard: It sounds like they were. Are there any other questions for staff? Okay, hearing none we'll open up the public hearing. Anyone wishing to address the Planning Commission on item 12 on our agenda this evening, which is the amendment to the Zoning Ordinance O10-42 which amends Section 28-124 and also adds a new Section 28-124.1 may do so by stepping forward to the podium. Seeing no one rushing towards the podium, I will now close the public hearing and bring it back to the Planning Commission. Are there any additional questions of staff on this? No? Okay.

Mrs. Hazard: Mr. Chairman, I make a motion for the Planning Commission to approve proposed Ordinance O10-42 as the concerns I believe that we raised as Ms. Kirkman said have been addressed by staff.

Ms. Kirkman: I'll second.

Mr. Howard: Discussion? Mrs. Hazard, you have the first opportunity for that.

Mrs. Hazard: Really... sorry, I did already say that I think our concerns about making sure that the definition is tight and is a private school has been met and staff worked with us on that and came up with language that I believe addressed our concerns.

Mr. Howard: Okay, thank you. Ms. Kirkman? No? Any other comments? Discussion? Okay, I'll call for the vote. All those in favor of Mrs. Hazard's motion which is approving proposed Ordinance O10-42 signify by saying aye.

Mr. Rhodes: Aye.

Mrs. Hazard: Aye.

Mr. Fields: Aye.

Mr. Mitchell: Aye.

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Ms. Kirkman: Aye.

Mr. Hirons: Aye.

Mr. Howard: Aye. Opposed nay? The motion carries 7-0.

Ms. Kirkman: Mr. Chair?

Mr. Howard: Yes Ms. Kirkman?

Ms. Kirkman: We've already taken a vote so I'm not (inaudible) the vote, but there is an issue that I would like our County Attorney to look into regarding the private access easement ordinance. And, you know, I was particularly disturbed by the differing treatment between... based solely on whether it was to an existing property or a newly created lot. And I guess I wonder if that creates some kind of constitutional issues about equal protection.

Mr. Howard: Alright. Mr. Smith, so Ms. Kirkman...

Ms. Kirkman: (Inaudible).

Mr. Howard: No, I understand... Ms. Kirkman would like some research on that issue. Did you understand the question?

Mr. Smith: Yes, Mr. Chairman. Ms. Kirkman, I will look into that issue and get back to you.

Mr. Howard: Thank you. Okay, we're back on item 7 on the agenda and we were about to hear from the applicant I believe, or the engineer actually, on the Mount Hope Estates Preliminary Subdivision Plan. Is that right?

7. *SUB100107; Mount Hope Estates - Preliminary Subdivision Plan* - *A preliminary subdivision plan for 16 single family residential lots on private well and septic systems, zoned A-1, Agricultural consisting of 57.93 acres located at the end of Mount Hope Church Road, approximately 3,700 feet west of its intersection with Brooke Road on Assessor's Parcels 39-25 and 39-46 within the Aquia Election District. (Time Limit: January 26, 2011)*

Ms. Karnes: Well, I'm not the engineer but I am the applicant's representative. And you will get a chance to hear from the engineer in just a minute. My name is Debrarae Karnes, I am an attorney with Leming and Healey and I am here representing the applicant. Now I prepared a wonderful presentation tonight to tell you why you should approve it tonight because it meets all the county standards and all issues were resolved. My listening to you, I hear at least several people wanting to request further information and a further hearing. So if that is the wish of the Commission as a whole I am here tonight to summarize the questions you raised and to address them when possible tonight and to promise to get more information. I captured five basic questions. I heard Mrs. Hazard ask about water testing as recommended by the Health Department and we will be glad to work with the Health Department and the County Attorney to figure out how that recommendation can be accomplished. Number two, I heard Ms. Kirkman ask about the reserve drainfields in the Virginia Power easement and you specifically asked to talk to the engineer about that but the engineer tells me he is really not qualified to answer those questions, you need to talk to the AOSE. So we will offer if that is what you

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guys want to have the AOSE at the next meeting to answer your questions. I do want to point out that your concerns were pre-anticipated by the applicant. In looking at the contract he has with Dominion Virginia Power which gives him permission to put the three reserve drainfields in the easement area, it specifically provides that they will be designed in a way to support the constant traffic generated by heavy construction equipment. And I know you are going to want ask the AOSE more questions about that. And by the way though I do want to maybe correct what may have been a misapprehension of the Commission. This plan originally submitted in 2003 lost its vesting and a whole new plan was done. And the new plan does comply with all the updated Ordinances. So I just want to clarify that. Okay the third question I heard was also from Ms. Kirkman, asked about the VDOT review. The VDOT review was done this year and the approval letter is in the file and in the staff report. The engineer tells me he does not remember he has no independent memory of whether the at-grade railroad crossing came up. So we will check on that and see what we can get for you on that issue. Number four, you guys promise to tell me if I missed anything. I think both Mr. Fields and Ms. Kirkman asked about stormwater management and specifically about LED. The applicant specifically and voluntarily incorporated LED in this plan. I am going bring the engineer up who is going to enjoy telling you all about it. But in fact even the staff made a point to review the plan to make sure it had all the details and in some cases I guess in the earliest submission, not all of the locations were shown and so when you look at the Hansen comments they had the engineer redo it and show that the narrative described the LED and the locations were shown, so he will be up in a minute. Number five Mr. Fields asked questions about the wells at the landfill and the engineer tells me that his plan actually shows the location of those and so here is your chance to ask me if you have any other questions but otherwise I am going to bring the engineer up to address stormwater management and the wells on the landfill site.

Mr. Fields: I was actually Mr. Chairman...thank you Ms. Karnes. I was actually...primarily asking the location of the cells. The cells are the actual landfill not the wells.

Ms. Karnes: Okay cells, I am sorry. I stand corrected but he tells me he's got those on the plan.

Mr. Fields: Okay.

Ms. Karnes: Okay?

Mr. Fields: Alright.

Mr. Howard: Thank you he was actually referencing the Section, was it C4?

Ms. Karnes: C3 and C4.

Mr. Howard: C3 and C4.

Ms. Karnes: The engineer is Chris Kowalski.

Mr. Howard: Okay, thank you.

Mr. Kowalski: Hi members of the Planning Commission. My name is Chris Kowalski and I was the engineer on this project. And to clear up any confusion, the cells on the landfill site are not shown on this plan. I believe you were discussing the wells on the site. The wells on the site have been shown; however, the cells on the landfill have not been shown.

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Mr. Howard: Right, the question was how close are the cells in the landfill, right? That was your...?

Mr. Fields: Well, because there is vast amount... the landfill property itself is much larger than even a fairly long time horizon. But eventually quite a bit of it will be used for the cells and of course many cells are already constructed and I don't recall off the top of my head where they are in relation to this property.

Mr. Kowalski: And unfortunately that is not information I have for you right away. We can research that with the R-Board and I feel we can get you a good answer on that and put them on the plans. As far as the LID comment goes, back when this plan was originally designed in 2005 the LID was voluntarily implemented into this plan even though it was not a requirement of your Ordinance at the time. And unfortunately as time went on more LID was required and that more LID that was required has been implemented into this plan to a further extent with more lots that require individual LID sites as can be seen on sheets C4, C5 and C6. Which show...well C5 shows predevelopment and C6 shows the actual LID sites on the plan. So if you would like to look at those individual LID sites have been shown.

Mr. Howard: On C6?

Mr. Kowalski: Correct

Mr. Fields: I see.

Mr. Kowalski: And C4 shows the details for those LID facilities as we anticipate them.

Mr. Fields: Can I...

Ms. Kirkman: Yes.

Mr. Fields: Can I follow up a question on the wells even though I don't have a map of the cells? In your discussions with the...or maybe you didn't...with the Health Department regarding these wells do you have any sense of the...I mean I don't want to make an issue of something if I am completely just off base here. Is there...are the wells that are proposed sunk to a depth and in a manner that there is no potential...I assume with that note there is some potential for inactivity...

Mr. Kowalski: The Health Department...

Mr. Fields: Inactivity with the effluent from the landfill, not that there is a lot. Believe me those cells...the modern clay cap cells are with the leach you know accumulator etcetera...the leach ate accumulator etcetera those things are very, very, very not environmentally impactful. But you just...there is no...there is no one hundred per cent certainty with any of that. You are putting of course everything in the world into those cells and the potential for migration off site is something I know the R-Board has to constantly monitor. That is part of the permit...the EPA and DEQ permitting process. Was there any discussion about the well types and the inter-activity of potential run off from the landfill?

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Mr. Kowalski: The Health Department did recommend the Class 3B wells which are shown on the preliminary plan and they also highly recommended the testing which was brought up earlier in the night.

Mr. Fields: Class 3B, can you help me with that?

Mr. Kowalski: It is a type of well casing.

Mr. Fields: It's a type of casing specifically.

Mr. Kowalski: Yes.

Mr. Fields: That is a little more secure let's say than Class 3A? I don't know I am just guessing.

Mr. Kowalski: As far as the multiple types of well casings I am not an expert on that and would not want to delve deeply into that issue.

Mr. Fields: Okay. This is the first division...isn't this...is this the first plan in a while that we have looked at that is literally adjacent to the landfill? We have not looked at much because I know we looked at things...when I was on the R-Board we have always been concerned about how proximal development is going to be. I mean it is a big property and the property itself is designed to some degree buffer the landfill but...okay, thank you.

Ms. Kirkman: The question I was going to ask, there is a stormwater management pond though here.

Mr. Kowalski: Correct, there are two ponds shown. That was originally a requirement of the stormwater...we still need to reduce the flow from the site which the flow from the site is being reduced mainly by the stormwater ponds. Water treatment in some quantity benefits are being added by the LID facilities. Does that address your question?

Ms. Kirkman: I am still trying to sort...I am trying to put together stormwater management ponds with LID.

Mr. Kowalski: Stormwater management ponds are more of a quantity control. You still need to reduce the amount of water that is leaving the site. LID is capable of doing that. Stormwater ponds are more efficient when it comes to treating direct impervious surface.

Ms. Kirkman: If the stormwater management ponds had not been built already would they be on this plan?

Mr. Kowalski: In all likelihood no.

Ms. Kirkman: Thank you.

Mr. Howard: Are there any other questions for the applicant while they are here?

Mr. Mitchell: Mr. Chairman, just a comment.

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Mr. Howard: Yes.

Mr. Mitchell: Mr. Fields and I both served on the R-Board for quite some time and both Pete and I ended up with a lot of experience in reference to this. My question here would the actual water well...do you have a definitive and maybe I overlooked it...a definitive depth for the water wells?

Mr. Kowalski: I do not I would have to ask the applicant to look into that. I can't give an answer on definitive...

Mr. Mitchell: Okay that's fine.

Mr. Kowalski: ...water wells. I don't know what well testing has been done.

Mr. Mitchell: I won't tie you down but I just want to be sure that we look at the depth. The R-Board has staff that did environmental studies. I presume it is still going on and what I would like to have you or somebody ask the R-Board if there was a migration, if there was a leakage, what would be the potential in reference to because the cell per se is like a bowl of water in essence is the shape of the cell. So my question is from the outside edge of the cell what type of migration would occur if there were any migration as far as ten foot down, twenty foot down, thirty foot down or what factors might affect a migration? If you could see if the R-Board could get us some information as far as the potential and I know we are looking at some possible maybes so forgive my term but I...if the staff that does the information for the R-Board could give us some sort of potential possible leakage and then if we can find out the depth of the wells and see how they correlate. Last but not least I would like to know if the well and you need to go from the center of the well, this is just for me.

Mr. Kowalski: Okay.

Mr. Mitchell: To the edge of the cell because not center of the cell...

Mr. Kowalski: Okay.

Mr. Mitchell: ...because the cell has a huge circumference. But when we look at distances how close is the well to the cell, I would like to know the center of the well if you can draw something or at least give us as close a measurement as possible to the outside...

Mr. Kowalski: Okay.

Mr. Mitchell: ...edge of the cell. Thank you.

Mr. Kowalski: Any other questions?

Mr. Howard: Any other questions for the applicant?

Ms. Kirkman: You may know the answer to this. I just want to...

Mr. Kowalski: I may.

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Ms. Kirkman: These are all new lots so these are going to be drilled wells they are not going to be bored wells so that means they are going to be tapping into the aquifer not using surface recharge.

Mr. Kowalski: I think you hit it on the head with the, I may know the answer I do not know the answer.

Ms. Kirkman: Okay, alright. Because the issue is not whether or not there is surface runoff. I believe it's whether or not the leachate gets into the aquifer which then contaminates the well.

Mr. Kowalski: I think that is where the questioning has been going.

Mr. Howard: Right.

Mr. Fields: The actual well shaft itself.

Ms. Kirkman: Right. Which is what the casing is for?

Mr. Fields: It is unlikely that leachate would necessarily enter the aquifer because there is several layers, but it could enter the well site itself possible, that is what we need to find out. And Mr. Mitchell I know asked that very clearly.

Mr. Howard: Okay, hearing no other questions for the applicant. Seeing there is certainly a desire to defer this and have them come back, and I don't think having them coming back on the 17th is a logical...

Mr. Mitchell: Mr. Chairman, seeing that it is in the Aquia district I would like to make a motion to defer this until the next meeting.

Mr. Howard: You want them back on the public hearing for the Comp Plan? Would you want to do a December meeting?

Mr. Mitchell: I am flexible, either way.

Mr. Hirons: I think it would be wise to be the first meeting in December, after the Comp Plan.

Mr. Mitchell: Yes, the...

Ms. Karnes: Mr. Chairman I was going to say the applicant has no problem with a December meeting.

Mr. Hirons: And I will second his motion.

Mr. Howard: Well we will let him make the motion. Go ahead make a motion to defer.

Mr. Mitchell: Motion to defer to the first meeting in...

Mr. Howard: In December.

Mr. Mitchell: In December.

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Mr. Rhodes: One December.

Mr. Mitchell: One December, SUB1000107 Mount Hope Estates Preliminary Subdivision Plan.

Mr. Hirons: I will second the motion.

Mr. Howard: Any discussion?

Ms. Kirkman: I just want to find out if that delay is going to impact on the Friends of Stafford Civil War Sites. Does that affect anything you guys are trying to time? Okay, because this does not require any staff work and it would go on the unfinished agenda.

Mr. Howard: We...Mr. Harvey, what is on the agenda prior to the public hearing? Do you know on the 17th?

Mr. Harvey: No we don't have anything specifically scheduled.

Mr. Howard: So we could potentially... that gives us an hour to work on this issue if Mr. Mitchell wants to accept a friendly amendment. To just change the date to the motion you could get them back here and we will...

Mr. Fields: We do need to make sure we got the...we are going to need people from the R-Board and the Health Department and the AOSE.

Ms. Kirkman: Oh are we?

Mr. Howard: Yes, all of the above.

Ms. Kirkman: Okay.

Mr. Fields: I am just worried that two weeks may not be enough time to get (inaudible).

Ms. Kirkman: Okay.

Mr. Fields: Though I have no problem with...

(Inaudible) Someone speaking from the audience, no microphone.

Mr. Howard: Microphone.

Ms. Kirkman: Okay.

Mr. Howard: Alright, so we will leave it as is. Alright, any other discussion on the motion? Hearing none we will call for the vote. All those in favor of Mr. Mitchell's motion signify by saying aye.

Mr. Rhodes: Aye.

Mrs. Hazard: Aye.

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Mr. Fields: Aye.

Mr. Mitchell: Aye.

Ms. Kirkman: Aye.

Mr. Hirons: Aye.

Mr. Howard: Aye. Opposed nay? The motion carries 7 to 0.

Mr. Kowalski: Thank you.

Mr. Howard: So that would be December 1st. Thank you. And item 8 on the agenda is the discussion of secondary streets acceptance requirements. And I guess potentially the repeal of the street access requirements. We have until January 17th. It's on there as new business. Mr. Harvey?

Mr. Harvey: Mrs. Hornung will lead the discussion for staff.

Mr. Howard: Great, thank you.

8. *Discussion of Secondary Street Acceptance Requirements (SSAR) - Repeal of Street Access Requirements (Time Limit: January 17, 2011)*

Mrs. Hornung: Hello again Mr. Chairman and members of the Commission. This...what's brought before you is basically to bring our code in alliance with the state code and the new SSAR regulations. And our Section of the Ordinance 22-90 for street access gave certain specifications for connectivity. And with the adoption of the SSAR from VDOT that is in conflict with their regulations so by repealing that section and removing that will bring us in line with the State Regulations. The only thing that I do want to bring to your attention is that a statement would be added to the Ordinance so that any application that's already under review would not be affected by this repeal in the Ordinance because the practice that VDOT has taken in the past is that any application that is currently under review, that has been reviewed possibly approved but has not finalized the County's approval yet is still under the old SSR regulations. Because they have already been designed and gone through the process. So by adding the final statement in this Ordinance that is be further ordained that this Ordinance shall take affect on the date at which the Board adopts it but also shall apply to only new applications submitted after this date. Then all those even currently any new application that comes in is subject to the new SSAR regulations. So that statement will cover not only the applications under review but then the applications that are newly submitted to the County for review.

Mr. Howard: Can you just explain again where we are in conflict with the State on this?

Mrs. Hornung: In our Ordinance for the different total of lots we require certain connections, accesses required. So if you have less than thirty five you are not required to have additional connections other than what you would normally have to the public road. But you would have more as you have more lots. And in the SSAR there is a certain calculation that they have for connectivity. In your packet there are just a few from the VDOT PowerPoint presentation. If you would like I would be glad to provide it to you or I have also provided the link to the VDOT website that has a number of

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attachments, links, PowerPoint presentations that gives the 101 for the SSAR, Street Secondary Acceptance Requirements.

Mr. Harvey: Mr. Chairman for a specific example if you will take the Patriot Ridge Subdivision that was on tonight's agenda.

Mr. Howard: Yes.

Mr. Harvey: Under our Ordinance it does not require them to take a look at whether they should connect to adjacent parcels. In the case of Patriot Ridge under the SSAR they had to. Because from our standard it is less than thirty five lots we would not have any look at it. But for VDOT standards, a single cul-de-sac isn't going to meet SSAR necessarily. They had to prove to VDOT they couldn't practically make a connection to an adjacent property. And there was some issue about that private ingress/egress easement is potentially going to go because that is the property staff had suggested they connect to but based on the topography VDOT agreed with the applicant's engineer that it was not practical to design a public street for that location. It may work for a private driveway but not a public street.

Mr. Howard: Okay, that helps. Any other questions for staff?

Ms. Kirkman: Are there any instances where repealing our Ordinance, because we could have something more restrictive than in our Subdivision Ordinance. We don't have to have the minimum of the VDOT. Are there any instances where this will lead to less connectivity? For instance because of the way the streets are structured that ration does not meet the requirements for additional connectivity requirements, but the number of under our requirements which are based on number of lots it would be more connectivity requirements. Do you understand what I am asking?

Mrs. Hornung: Yes. I don't think that it would because that is why we are repealing it. Because as Mr. Harvey said the new SSAR doesn't allow a single road ending in a cul-de-sac anymore. The new SSAR would require a connection from that particular development to another parcel, unless it is entirely impossible. There are some exceptions, but I am not well versed on...

Ms. Kirkman: We have some...we have seen some subdivision plans with very few street intersections and a lot of lots because of the unique way that staff has interpreted what blocks are. So that is my concern. I would like to know if there are any instances where it would actually repealing our part of the Ordinance would lead to fewer connectivity requirements. And there may not be, I just want...it is a math equation so you all can figure it out.

Mrs. Hornung: That I think would have to be researched.

Mr. Harvey: I am sure we could pull some subdivision preliminary plans that the Commission has looked at in the past two years or so and look at those in relation to the connectivity requirements in SSAR.

Ms. Kirkman: Yes I think were it would be most likely to occur is probably maybe in the A-2s maybe.

Mr. Harvey: We will check into it.

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Ms. Kirkman: Okay.

Mr. Harvey: And give a report back to the Commission.

Mr. Howard: Alright and you have time to do that I mean one of the recommendations you are giving us tonight is to send this to a...agree to send it to a public hearing on the 15th and certainly on the 1st if we have time before the public hearing, I am sorry on the 17th of November or the 1st. There is really two meetings before that date, that you could come back with some of those answers. I almost think that our Ordinance allows a little more leniency that the VDOT one does. I could be wrong.

Mr. Harvey: The one issue that we have with that is that we may be able to say to an applicant you don't have...from the County's perspective you don't have to meet these requirements that VDOT has, but our Ordinance says that the streets have to be designed to VDOT standards...

Mr. Howard: VDOT standards.

Mr. Harvey: And the lots have to be on publically maintained streets so in effect they have to abide by VDOT requirements.

Mr. Howard: They could fight this requirement that we have anyway but I think it is actually more lenient than what VDOT is going after if I understood it right. Okay so is there a motion? Would anyone like to make a motion to send this to public hearing? With the understanding staff will get back to us with those answers.

Ms. Kirkman: (Inaudible - microphone not on.)

Mr. Howard: Motion by Ms. Kirkman. Is there a second?

Mr. Fields: Second.

Mr. Howard: Second by Mr. Fields. Any discussion? Hearing none I will call for the vote. All those in favor of sending this to public hearing December 15th signify by saying aye.

Mr. Rhodes: Aye.

Mrs. Hazard: Aye.

Mr. Fields: Aye.

Mr. Mitchell: Aye.

Ms. Kirkman: Aye.

Mr. Hirons: Aye.

Mr. Howard: Aye. Opposed nay? The motion carries 7 to 0.

Mrs. Hornung: Thank you.

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Mr. Howard: Mr. Harvey, we are now in the Planning Director's Report.

PLANNING DIRECTOR'S REPORT

Mr. Harvey: Mr. Chairman, the only thing I have to discuss tonight is a recommendation to the Transportation Committee that they evaluate their meeting schedule specifically for November but maybe also for December. The regularly scheduled Transportation Committee meeting would occur on the 24th of November which is the day before Thanksgiving. If the County follows traditional rules, the State usually closes a half day prior to Thanksgiving which would mean our county offices would be closed that afternoon.

Mr. Fields: I will be out of town that day anyway; I am heading out of town for the holiday.

Mr. Rhodes: I still want to come in and meet.

Mr. Howard: Mr. Rhodes will still like to come in on Thanksgiving Eve.

Mr. Fields: I know.

Mr. Rhodes: Okay, I will defer.

Mr. Fields: I think we really...aren't we really at the point with that committee that until we are ready to like look at some more information on the corridor we really don't have anything on our plate at this point, do we?

Mr. Harvey: That is correct.

Mr. Fields: Yes.

Mr. Howard: That was Mr. Harvey's recommendation via email to maybe go to...

Mr. Fields: The Board changes...with the Board kind of changing their policy...I am not trying to shirk my duty, but that committee really only has now fairly occasional work to do. It doesn't really have a monthly agenda.

Mr. Rhodes: Yes there are the sidewalk efforts.

Mr. Howard: Yes the sidewalk efforts.

Mr. Fields: The sidewalk efforts I think is our crowning achievement. I think we should give ourselves a plaque. Or at least have sidewalks named after us.

Mr. Rhodes: (Inaudible) through the holidays?

Mr. Howard: I think they are agreeing to...

Mr. Fields: Bail through the holidays.

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Mr. Howard: Bail through the holidays Mr. Harvey and come back in January.

Mr. Harvey: Okay Mr. Chairman I will the Public Information Office so they can post the meeting cancellations.

Mr. Howard: Thank you. Anything else Mr. Harvey?

Mr. Harvey: That concludes my report.

Mr. Howard: Very nice report. Mr. Smith?

COUNTY ATTORNEY'S REPORT

Mr. Smith: Mr. Chairman my only report is at the Board's direction our office filed an appeal in the BZA case, the decision in Stafford Lakes Service Station. Our office has not received any further direction to proceed with the appeal. Just to file the appeal at this time.

Mr. Howard: Thank you. I do not have a...well I guess I could put this in Chairman's report and the Committee reports together. Are there any committee reports? No, Okay.

COMMITTEE REPORTS

None

CHAIRMAN'S REPORT

Well we do have three other committees. One is a joint committee consisting of Mrs. Hazard, Mr. Mitchell, Mr. Hirons, Mr. Dudenhefer, Mr. Crisp and Mr. Milde. They have not met yet but they will be meeting. The second committee, really there are two committees. We consolidated the conditional zoning proffer committee and the privatized liquor sales. We have not met yet either so there is not committee updates but Mr. Fields, Mr. Rhodes and myself have committed to coming up with a few dates before we leave chambers later today...tonight and we will send those out to everyone.

Mr. Rhodes: (Inaudible).

Mr. Howard: And as soon as we hear about the joint committee we will announce those meeting dates and times as well. It is likely that the committee will be meeting during the day for the conditional zoning and also the privatized liquor sales. Just so everyone knows. And that was it for me. Approval of minutes for September 15th.

OTHER BUSINESS

APPROVAL OF MINUTES

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Mr. Rhodes: Move for approval of the minutes of September 15th.

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Mr. Howard: Is there a second?

Mr. Mitchell: Second.

Mr. Howard: Okay I actually watched this video tape so I will be voting on the minutes myself and they looked pretty accurate.

Mr. Mitchell: Mr. Chairman I read the minutes, I did not see the video, but I read the minutes this weekend so I will be voting on it also.

Mr. Howard: Okay. Is there any other discussion on the minutes? Mr. Harvey.

Mr. Harvey: I have an issue beyond the minutes to add for discussion.

Mr. Howard: Okay, so we will vote on the minutes and then we will go to Mr. Harvey for discussion. All those in favor of the motion to approve the September 15, 2010 minutes as written signify by saying aye.

Mr. Rhodes: Aye.

Mrs. Hazard: Aye.

Mr. Fields: Aye.

Mr. Mitchell: Aye.

Ms. Kirkman: Aye.

Mr. Hirons: Aye.

Mr. Howard: Aye. Opposed? The motion carries 7 to 0. Mr. Harvey, we are back to you for discussion.

Mr. Harvey: Thank you Mr. Chairman. We do have a Technical Review Committee meeting scheduled for November 23rd. It is for the Hampton Run construction plan for that residential neighborhood at the end of Brafferton Boulevard. If any Commissioner is interested please let us know. That will be in the morning of the 23rd.

Mr. Howard: That is a Tuesday?

Mr. Rhodes: No that is a...Tuesday yes.

Mr. Harvey: Tuesday.

Mrs. Hornung: Tuesday, yes at 9:00 a. m.

Mr. Howard: I can actually attend that.

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Mr. Fields: Preferable...I would not mind but it is preferable to have someone from up in that area of the County.

Mr. Howard: Yes, I would agree. Whoever wants to go. I know that area pretty well, but if Mr. Rhodes would like to go that is fine. It is in Garrisonville. This is behind the Wal-Mart right?

Mr. Harvey: Correct.

Mr. Howard: This actually...I have already seen part of this on the map. Alright, I would be more than happy to attend. Okay any other business? Hearing none I now adjourn the meeting.

ADJOURNMENT

With no further business to discuss, the meeting was adjourned at 9:12 p.m.

Gordon Howard, Chairman
Planning Commission